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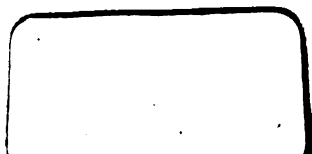
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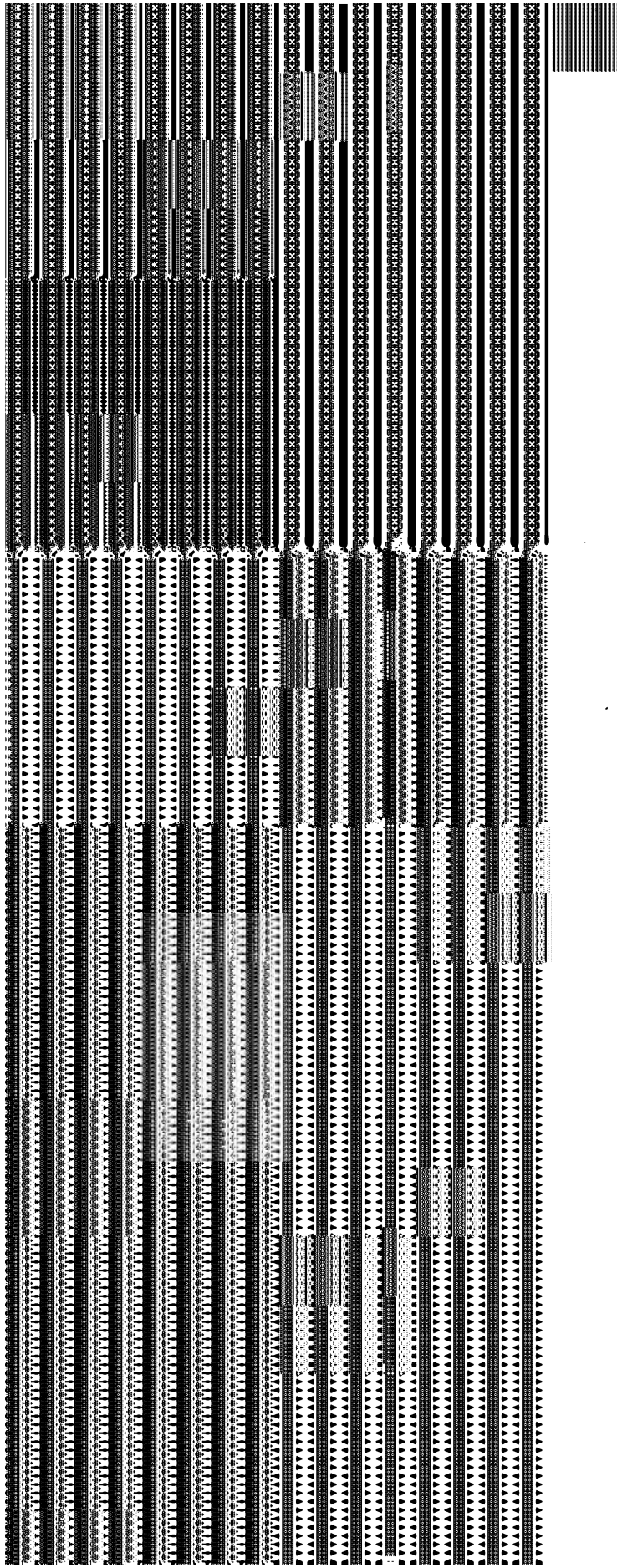
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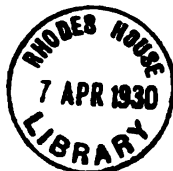
**FROM GALES AND SEATON'S ANNALS OF CONGRESS; FROM THEIR
REGISTER OF DEBATES; AND FROM THE OFFICIAL
REPORTED DEBATES, BY JOHN C. RIVES.**

BY
THE AUTHOR OF THE THIRTY YEARS' VIEW.

VOL. XII.

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TWENTY-SECOND CONGRESS.—SECOND SESSION.

PROCEEDINGS IN THE SENATE.

MONDAY, December 3, 1852.

Election of President pro tem.

At 12 o'clock, the Senate was called to order by the Secretary, Mr. LOWRIE, (the VICE PRESIDENT being absent, and the President pro tempore, Mr. TAZEWELL, having resigned his seat in the Senate,) and thirty-two members appearing in their seats, and there being a quorum, Mr. SMITH, of Maryland, moved to proceed to the election of President pro tempore, which was agreed to.

The Hon. HUGH L. WHITE, of Tennessee, having received a majority of all the votes, was declared duly elected President of the Senate, pro tempore, and being conducted to the chair by Mr. TYLER, of Virginia, returned his acknowledgments to the Senate, as follows:

To the members of the Senate I tender my sincere acknowledgments for the distinguished honor conferred by their vote.

No person who has been so long a member of this body could have been selected who has made the rules of its proceedings less an object of his study. This circumstance will make my errors more numerous than might be anticipated, and will throw me oftener on the kind indulgence of the Senate.

Whatever my errors may be, I have the consolation of knowing that they can be revised and corrected at the instance of any member; and I beg every one to believe that so far from feeling hurt at the correctness of my decisions being questioned, it will be matter of gratification that the sense of the Senate may be taken in every instance when it may be supposed I am mistaken.

Whatever industry and attention can do towards removing defects in qualifications I promise shall be done, and I shall take the chair, determined that in anxious desire to do that which is just towards every member, and that which will most promote the correct discharge of the important business we may have to perform, I will not be exceeded by any who have preceded me.

On motion it was ordered that messages communicating the election of Mr. WHITE as President pro tempore, be sent to the House of Representatives, and to the President of the United States.

Messrs. GRUNDY and FRELINGHUYSEN were appointed on the Joint Committee, to wait on the President of the United States, and inform him of the readiness of the two Houses to receive from him any communication.

TUESDAY, December 4.

The sitting to-day was occupied in receiving and reading the President's Message as follows:

Fellow Citizens of the Senate and House of Representatives:

It gives me pleasure to congratulate you upon your return to the seat of Government, for the purpose of discharging your duties to the people of the United States. Although the pestilence which had traversed the Old World has entered our limits, and extended its ravages over much of our land, it has pleased Almighty God to mitigate its severity, and lessen the number of its victims, compared with those who have fallen in most other countries over which it has spread its terrors. Notwithstanding this visitation, our country presents, on every side, marks of prosperity and happiness, unequalled, perhaps, in any other portion of the world. If we fully appreciate our comparative condition, existing causes of discontent will appear unworthy of attention, and, with hearts of thankfulness to that Divine Being who has filled our cup of prosperity, we shall feel our resolution strengthened to preserve and hand down to posterity that liberty and that union which we have received from our fathers, and which constitute the sources and the shield of all our blessings.

The relations of our country continue to present the same picture of amicable intercourse that I had the satisfaction to hold up to your view at the open-

ing of your last session. The same friendly professions, the same desire to participate in our flourishing commerce, the same disposition to refrain from injuries unintentionally offered, are, with few exceptions, evinced by all nations with whom we have any intercourse. This desirable state of things may be mainly ascribed to our undeviating practice of the rule which has long guided our national policy, to require no exclusive privileges in commerce, and to grant none. It is daily producing its beneficial effect, in the respect shown to our flag, the protection of our citizens and their property abroad, and in the increase of our navigation, and the extension of our mercantile operations. The returns which have been made out since we last met will show an increase during the last preceding year of more than 80,000 tons in our shipping, and of near forty millions of dollars in the aggregate of our imports and exports.

Nor have we less reason to felicitate ourselves on the position of our political than of our commercial concerns. They remain in the state in which they were when I last addressed you—a state of prosperity and peace, the effect of a wise attention to the parting advice of the revered father of his country on this subject condensed into a maxim for the use of posterity by one of his most distinguished successors, to cultivate free commerce and honest friendship with all nations, but to make entangling alliances with none. A strict adherence to this policy has kept us aloof from the perplexing questions that now agitate the European world, and have more than once deluged those countries with blood. Should those scenes unfortunately recur, the parties to the contest may count on a faithful performance of the duties incumbent on us as a neutral nation, and our citizens may equally rely on the firm assertion of their neutral rights.

With the nation that was our earliest friend and ally in the infancy of our political existence, the most friendly relations have subsisted through the late revolutions of its Government, and, from the events of the last, promise a permanent duration. It has made an approximation in some of its political institutions to our own, and raised a monarch to the throne, who preserves, it is said, a friendly recollection of the period during which he acquired among our citizens the high consideration that could then have been produced by his personal qualifications alone.

Our commerce with that nation is gradually assuming a mutually beneficial character, and the adjustment of the claims of our citizens has removed the only obstacle there was to an intercourse not only lucrative, but productive of literary and scientific improvement.

From Great Britain I have the satisfaction to inform you that I continue to receive assurances of the most amicable disposition, which have, on my part, on all proper occasions, been promptly and sincerely reciprocated. The attention of that Government has latterly been so much engrossed by matters of a deeply interesting domestic character that we could not press upon it the renewal of negotiations which had been unfortunately broken off by the unexpected recall of our Minister, who had commenced them with some hopes of success. My great object was the settlement of questions which, though now dormant, might hereafter be revived under circumstances that would endanger the good understanding which it is the interest of both par-

ties to preserve inviolate, cemented, as it is, by a community of language, manners, and social habits, and by the high obligations we owe to our British ancestors for many of our most valuable institutions, and for that system of representative Government which has enabled us to preserve and improve them.

The question of our North-eastern boundary still remains unsettled. In my last annual Message I explained to you the situation in which I found that business on my coming into office, and the measures I thought it my duty to pursue for asserting the rights of the United States before the Sovereign who had been chosen by my predecessor to determine the question; and, also, the manner in which he had disposed of it. A special message to the Senate in their executive capacity, afterwards brought before them the question, whether they would advise a submission to the opinion of the sovereign arbiter. That body having considered the award as not obligatory, and advised me to open a further negotiation, the proposition was immediately made to the British Government: but the circumstances to which I have alluded, have hitherto prevented any answer being given to the overture. Early attention, however, has been promised to the subject, and every effort, on my part, will be made for a satisfactory settlement of this question, interesting to the Union generally, and particularly so to one of its members.

The claims of our citizens on Spain are not yet acknowledged. On a closer investigation of them than appears to have heretofore taken place, it was discovered that some of these demands, however strong they might be upon the equity of that Government, were not such as could be made the subject of national interference. And, faithful to the principle of asking nothing but what was clearly right, additional instructions have been sent to modify our demands, so as to embrace those only on which, according to the laws of nations, we had a strict right to insist. An inevitable delay in procuring the documents necessary for this review of the merits of these claims, retarded this operation, until an unfortunate malady which has afflicted his Catholic Majesty, prevented an examination of them. Being now, for the first time, presented in an unexceptionable form, it is confidently hoped the application will be successful.

I have the satisfaction to inform you that the application I directed to be made for the delivery of a part of the archives of Florida, which had been carried to the Havana, has produced a royal order for their delivery, and that measures have been taken to procure its execution.

By the report of the Secretary of State, communicated to you on the 25th of June last, you were informed of the conditional reduction obtained by the Minister of the United States at Madrid, of the duties on tonnage levied on American shipping in the ports of Spain. The condition of that reduction having been complied with on our part, by the act passed the 18th of July last, I have the satisfaction to inform you that our ships now pay no higher nor other duties in the continental ports of Spain than are levied on their national vessels.

The demands against Portugal for illegal captures in the blockade of Terceira, have been allowed to the full amount of the accounts presented by the claimants, and payment was promised to be made in three instalments. The first of these has been

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[SENATE.]

paid; the second, although due, had not, at the date of our last advices, been received, owing, it was alleged, to embarrassments in the finances, consequent on the civil war in which that nation is engaged.

The payments stipulated by the Convention with Denmark have been punctually made, and the amount is ready for distribution among the claimants, as soon as the Board now sitting shall have performed their functions.

I regret that, by the last advices from our *Chargé d'Affaires* at Naples, that Government had still delayed the satisfaction due to our citizens; but at that date the effect of the last instructions was not known. Despatches from thence are hourly expected, and the result will be communicated to you without delay.

With the rest of Europe our relations, political and commercial, remain unchanged. Negotiations are going on, to put on a permanent basis the liberal system of commerce now carried on between us and the Empire of Russia. The treaty concluded with Austria is executed by His Imperial Majesty with the most perfect good faith; and, as we have no diplomatic agent at his court, he personally inquired into, and corrected, a proceeding of some of his subaltern officers, to the injury of our Consul in one of his ports.

Our treaty with the Sublime Porte is producing its expected effects on our commerce. New markets are opening for our commodities, and a more extensive range for the employment of our ships. A slight augmentation of the duties on our commerce, inconsistent with the spirit of the treaty, had been imposed; but, on the representation of our *Chargé d'Affaires*, it has been promptly withdrawn, and we now enjoy the trade and navigation of the Black Sea, and of all the ports belonging to the Turkish Empire and Asia, on the most perfect equality with all foreign nations.

I wish earnestly that, in announcing to you the continuance of friendship and the increase of a profitable commercial intercourse with Mexico, with Central America, and the States of the South, I could accompany it with the assurance that they all are blessed with that internal tranquillity and foreign peace which their heroic devotion to the cause of their independence merits. In Mexico, a sanguinary struggle is now carried on, which has caused some embarrassment to our commerce; but both parties profess the most friendly disposition towards us. To the termination of this contest we look for the establishment of that secure intercourse so necessary to nations whose territories are contiguous. How important it will be to us we may calculate from the fact, that, even in this unfavorable state of things, our maritime commerce has increased, and an internal trade by caravans, from St. Louis to Santa Fe, under the protection of escorts furnished by the Government, is carried on to great advantage, and is daily increasing. The agents provided for, by the treaty with this power, to designate the boundaries which it established, have been named on our part; but one of the evils of the civil war now raging there has been the appointment of those with whom they were to co-operate has not yet been announced to us.

The Government of Central America has expelled from its territory the party which some time since disturbed its peace. Desirous of fostering a favorable disposition towards us, which has on more than one

occasion been evinced by this interesting country, I made a second attempt in this year to establish a diplomatic intercourse with them, but the death of the distinguished citizen whom I had appointed for that purpose, has retarded the execution of measures from which I hoped much advantage to our commerce. The union of the three States which formed the Republic of Colombia has been dissolved; but they all, it is believed, consider themselves as separately bound by the Treaty which was made in their federal capacity. The Minister accredited to the Federation continues in that character near the Government of New Granada, and hopes were entertained that a new Union would be formed between the separate States, at least for the purposes of foreign intercourse. Our Minister has been instructed to use his good offices, whenever they shall be desired, to produce the re-union so much to be wished, for the domestic tranquillity of the parties, and the security and facility of foreign commerce.

Some agitations, naturally attendant on an infant reign, have prevailed in the empire of Brazil, which have had the usual effect upon commercial operations; and while they suspended the consideration of claims created on similar occasions, they have given rise to new complaints on the part of our citizens. A proper consideration for calamities and difficulties of this nature has made us less urgent and peremptory in our demands for justice than duty to our fellow-citizens would, under other circumstances, have required. But their claims are not neglected, and will on all proper occasions be urged, and, it is hoped, with effect.

I refrain from making any communication on the subject of our affairs with Buenos Ayres, because the negotiation communicated to you in my last annual Message was, at the date of our last advices, still pending, and in a state that would render a publication of the details inexpedient.

A Treaty of Amity and Commerce has been formed with the Republic of Chili, which, if approved by the Senate, will be laid before you. That Government seems to be established, and at peace with its neighbors; and its ports being the resorts of our ships which are employed in the highly important trade of fisheries, this commercial convention cannot but be of great advantage to our fellow-citizens engaged in that perilous but profitable business.

Our commerce with the neighboring State of Peru, owing to the onerous duties levied on our principal articles of export, has been on the decline, and all endeavors to procure an alteration have hitherto proved fruitless. With Bolivia we have yet no diplomatic intercourse, and the continued contests carried on between it and Peru have made me defer, until a more favorable period, the appointment of any agent for that purpose.

An act of atrocious piracy having been committed on one of our trading ships by the inhabitants of a settlement on the west coast of Sumatra, a frigate was despatched with orders to demand satisfaction for the injury, if those who committed it should be found members of a regular government, capable of maintaining the usual relations with foreign nations; but if, as it was supposed, and as they proved to be, they were a band of lawless pirates, to inflict such a chastisement as would deter them and others from like aggressions. This last was done, and the effect has been an increased respect for our flag in those distant seas, and additional security for our commerce.

In the view I have given of our connection with foreign powers, allusions have been made to their domestic disturbances or foreign wars, to their revolutions or dissensions. It may be proper to observe that this is done solely in cases where those events affect our political relations with them, or to show their operation on our commerce. Further than this it is neither our policy nor our right to interfere. Our best wishes on all occasions, our good offices when required, will be afforded to promote the domestic tranquillity and foreign peace of all nations with whom we have any intercourse. Any intervention in their affairs further than this, even by the expression of an official opinion, is contrary to our principles of international policy, and will always be avoided.

The report which the Secretary of the Treasury will, in due time, lay before you, will exhibit the national finances in a highly prosperous state. Owing to the continued success of our commercial enterprise, which has enabled the merchants to fulfil their engagements with the Government, the receipts from customs during the year will exceed the estimate presented at the last session; and, with the other means of the Treasury, will prove fully adequate, not only to meet the increased expenditures resulting from the large appropriations made by Congress, but to provide for the payment of all the public debt which is at present redeemable. It is now estimated that the customs will yield to the Treasury, during the present year, upwards of twenty-eight millions of dollars. The public lands, however, have proved less productive than was anticipated, and, according to present information, will not much exceed two millions. The expenditures for all objects other than the public debt are estimated to amount, during the year, to about sixteen millions and a half, while a still larger sum, viz., eighteen millions of dollars, will have been applied to the principal and interest of the public debt.

It is expected, however, that, in consequence of the reduced rates of duty which will take effect after the 3d of March next, there will be a considerable falling off in the revenue from customs in the year 1833. It will, nevertheless, be amply sufficient to provide for all the wants of the public service, estimated even upon a liberal scale, and for the redemption and purchase of the remainder of the public debt. On the first of January next the entire public debt of the United States, funded and unfunded, will be reduced to within a fraction of seven millions of dollars, of which \$2,227,868 are not of right redeemable until the 1st of January, 1834, and \$4,785,296 not until the 2d of January, 1835. The Commissioners of the Sinking Fund, however, being invested with full authority to purchase the debt at the market price, and the means of the Treasury being ample, it may be hoped that the whole will be extinguished within the year 1833.

I cannot too cordially congratulate Congress and my fellow-citizens on the near approach of that memorable and happy event, the extinction of the public debt of this great and free nation. Faithful to the wise and patriotic policy marked out by the Legislature of the country for this object, the present Administration has devoted to it all the means which a flourishing commerce has supplied, and a prudent economy preserved, for the public Treasury. Within the four years for which the people

have confided the Executive power to my charge, fifty-eight millions of dollars will have been applied to the payment of the public debt. That this has been accomplished without stinting the expenditures for all other proper objects, will be seen by referring to the liberal provision made during the same period for the support and increase of our means of maritime and military defence, for internal improvements of a national character, for the removal and preservation of the Indians, and lastly, for the gallant veterans of the Revolution.

The final removal of this great burden from our resources, affords the means of further provision for all the objects of general welfare and public defence which the constitution authorizes, and presents the occasion for such further reduction in the revenue as may not be required for them. From the report of the Secretary of the Treasury it will be seen that after the present year such a reduction may be made to a considerable extent; and the subject is earnestly recommended to the consideration of Congress, in the hope that the combined wisdom of the Representatives of the people will devise such means of effecting that salutary object as may remove those burdens which shall be found to fall unequally upon any, and as may promote all the great interests of the community.

Long and patient reflection has strengthened the opinions I have heretofore expressed to Congress on this subject, and I deem it my duty, on the present occasion, again to urge them upon the attention of the Legislature. The soundest maxims of public policy, and the principles upon which our Republican institutions are founded, recommend a proper adaptation of the revenue to the expenditure, and they also require that the expenditure shall be limited to what, by an economical administration, shall be consistent with the simplicity of the Government, and necessary to an efficient public service. In effecting this adjustment it is due, in justice to the interests of the different States, and even to the preservation of the Union itself, that the protection afforded by existing laws to any branches of the national industry should not exceed what may be necessary to counteract the regulations of foreign nations, and to secure a supply of those articles of manufacture essential to the national independence and safety in time of war. If, upon investigation, it shall be found, as it is believed it will be, that the legislative protection granted to any particular interest is greater than is indispensably requisite for these objects, I recommend that it be gradually diminished, and that, as far as may be consistent with these objects, the whole scheme of duties be reduced to the revenue standard as soon as a just regard to the faith of the Government, and to the preservation of the large capital invested in establishments of domestic industry, will permit.

That manufactures adequate to the supply of our domestic consumption would, in the abstract, be beneficial to our country, there is no reason to doubt; and to effect their establishment, there is perhaps, no American citizen who would not, for a while, be willing to pay a higher price for them. But, for this purpose, it is presumed that a tariff of high duties, designed for perpetual protection, has entered into the minds of but few of our statesmen. The most they have anticipated is a temporary and generally incidental protection, which they maintain has the effect to reduce the price, by domestic competition, below that of the foreign arti-

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[SENATE.]

cle. Experience, however, our best guide on this as on other subjects, makes it doubtful whether the advantages of this system are not counterbalanced by many evils, and whether it does not tend to beget, in the minds of a large portion of our countrymen, a spirit of discontent and jealousy dangerous to the stability of the Union.

What then shall be done? Large interests have grown up under the implied pledge of our National Legislation, which it would seem a violation of public faith suddenly to abandon. Nothing could justify it but the public safety, which is the supreme law. But those who have vested their capital in manufacturing establishments cannot expect that the people will continue permanently to pay high taxes for their benefit when the money is not required for any legitimate purpose in the administration of the Government. Is it not enough that the high duties have been paid as long as the money arising from them could be applied to the common benefit in the extinguishment of the public debt?

Those who take an enlarged view of the condition of our country must be satisfied that the policy of protection must be ultimately limited to those articles of domestic manufacture which are indispensable to our safety in time of war. Within this scope, on a reasonable scale, it is recommended, by every consideration of patriotism and duty, which will doubtless always secure to it a liberal and efficient support. But beyond this object we have already seen the operation of the system productive of discontent. In some sections of the Republic its influence is deprecated as tending to concentrate wealth into a few hands, and as creating those germs of dependence and vice which in other countries have characterized the existence of monopolies, and proved so destructive of liberty and the general good. A large portion of the people in one section of the Republic declares it not only inexpedient on these grounds, but as disturbing the equal relations of property by legislation, and therefore unconstitutional and unjust.

Doubtless, these effects are, in a great degree, exaggerated, and may be ascribed to a mistaken view of the considerations which led to the adoption of the tariff system; but they are nevertheless important in enabling us to review the subject with a more thorough knowledge of all its bearings upon the great interests of the republic, and with a determination to dispose of it so that none can with justice complain.

It is my painful duty to state, that, in one quarter of the United States, opposition to the revenue laws has risen to a height which threatens to thwart their execution, if not to endanger the integrity of the Union. Whatever obstructions may be thrown in the way of the judicial authorities of the General Government, it is hoped they will be able peaceably to overcome them by the prudence of their own officers and the patriotism of the people. But should this reasonable reliance on the moderation and good sense of all portions of our fellow-citizens be disappointed, it is believed that the laws themselves are fully adequate to the suppression of such attempts as may be immediately made. Should the exigency arise, rendering the execution of the existing laws impracticable from any cause whatever, prompt notice of it will be given to Congress, with the suggestion of such views and measures as may be deemed necessary to meet it.

In conformity with principles heretofore explained, and with the hope of reducing the General Government to that simple machine which the constitution created, and of withdrawing from the States all other influence than that of its universal beneficence in preserving peace, affording a uniform currency, maintaining the inviolability of contracts, diffusing intelligence, and discharging unfelt its other superintending functions, I recommend that provision be made to dispose of all stocks now held by it in corporations, whether created by the General or State Governments, and placing the proceeds in the Treasury. As a source of profit, these stocks are of little or no value: as a means of influence among the States, they are adverse to the purity of our institutions. The whole principle on which they are based, is deemed by many unconstitutional; and to persist in the policy which they indicate is considered wholly inexpedient.

It is my duty to acquaint you with an arrangement made by the Bank of the United States with a portion of the holders of the three per cent. stock, by which the Government will be deprived of the use of the public funds longer than was anticipated. By this arrangement, which will be particularly explained by the Secretary of the Treasury, a surrender of the certificates of this stock may be postponed until October, 1833; and thus the liability of the Government, after its ability to discharge the debt, may be continued by the failure of the Bank to perform its duties.

Such measures as are within the reach of the Secretary of the Treasury have been taken to enable him to judge whether the public deposits in that institution may be regarded as entirely safe; but, as his limited power may prove inadequate to this object, I recommend the subject to the attention of Congress, under the firm belief that it is worthy of their serious investigation. An inquiry into the transactions of the institution, embracing the branches as well as the principal Bank, seems called for by the credit which is given throughout the country to many serious charges, impeaching its character, and which, if true, may justly excite the apprehension that it is no longer a safe depository of the money of the people.

Among the interests which merit the consideration of Congress, after the payment of the public debt, one of the most important, in my view, is that of the public lands. Previous to the formation of our present constitution, it was recommended by Congress that a portion of the waste lands owned by the States should be ceded to the United States, for the purposes of general harmony, and as a fund to meet the expenses of the war. The recommendation was adopted, and, at different periods of time, the States of Massachusetts, New York, Virginia, North and South Carolina, and Georgia, granted their vacant soil for the uses for which they had been asked. As the lands may now be considered as relieved from this pledge, the object for which they were ceded having been accomplished, it is in the discretion of Congress to dispose of them in such a way as best to conduce to the quiet, harmony, and general interest of the American people. In examining this question, all local and sectional feelings should be discarded, and the whole United States regarded as one people, interested alike in the prosperity of their common country.

It cannot be doubted that the speedy settlement

of these lands constitutes the true interests of the Republic. The wealth and strength of a country are its population, and the best part of that population are the cultivators of the soil. Independent farmers are everywhere the basis of society, and true friends of liberty.

In addition to these considerations, questions have already arisen, and may be expected hereafter to grow out of the public lands, which involve the rights of the new States and the powers of the General Government; and, unless a liberal policy be now adopted, there is danger that these questions may speedily assume an importance not now generally anticipated. The influence of a great sectional interest, when brought into full action, will be found more dangerous to the harmony and union of the States, than any other cause of discontent; and it is the part of wisdom and sound policy to foresee its approaches, and to endeavor, if possible, to counteract them.

Of the various schemes which have been hitherto proposed in regard to the disposal of the public lands, none has yet received the entire approbation of the National Legislature. Deeply impressed with the importance of a speedy and satisfactory arrangement of the subject, I deem it my duty, on this occasion, to urge it upon your consideration, and, to the propositions which have been heretofore suggested by others, to contribute those reflections which have occurred to me, in the hope that they may assist you in your future deliberations.

It seems to me to be our true policy, that the public lands shall cease as soon as practicable to be a source of revenue, and that they be sold to settlers in limited parcels at a price barely sufficient to reimburse to the United States the expense of the present system, and the cost arising under our Indian compact. The advantages of accurate surveys and undoubted titles, now secured to purchasers, seem to forbid the abolition of the present system, because none can be substituted which will more perfectly accomplish these important ends. It is desirable, however, that in convenient time this machinery be withdrawn from the States, and that the right of soil, and the future disposition of it, be surrendered to the States respectively in which it lies.

The adventurous and hardy population of the West, besides contributing their equal share of taxation, under our import system, have, in the progress of our Government, for the land they occupy, paid into the Treasury a large proportion of forty millions of dollars; and of the revenue received therefrom, but a small part has been expended amongst them. When, to the disadvantage of their situation in this respect, we add the consideration that it is their labor alone which gives real value to the lands, and that the proceeds arising from their sale are distributed chiefly among States which had not originally any claim to them, and which have employed the undivided emoluments arising from the sale of their own lands, it cannot be expected that the new States will remain longer contented with the present policy after the payment of the public debt. To avert the consequences which may be apprehended from this cause, to put an end forever to all partial and interested legislation on the subject, and to afford to every American citizen of enterprise the opportunity of securing an independent freehold, it seems to me, there-

fore, best to abandon the idea of raising a future revenue out of the public lands.

In former Messages I have expressed my conviction that the constitution does not warrant the application of the funds of the General Government to objects of internal improvement which are not national in their character, and, both as a means of doing justice to all interests, and putting an end to a course of legislation calculated to destroy the purity of the Government, have urged the necessity of reducing the whole subject to some fixed and certain rule. As there never will occur a period, perhaps, more propitious than the present to the accomplishment of this object, I beg leave to press the subject again upon your attention.

Without some general and well-defined principles ascertaining those objects of internal improvement to which the means of the nation may be constitutionally applied, it is obvious that the exercise of the power can never be satisfactory. Besides the danger to which it exposes Congress, of making hasty appropriations to works of the character of which they may be frequently ignorant, it promotes a mischievous and corrupting influence upon elections, by holding out to people the fallacious hope that the success of a certain candidate will make navigable their neighboring creek or river, bring commerce to their doors, and increase the value of their property. It thus favors combinations to squander the Treasury of the country upon a multitude of local objects, as fatal to just legislation as to the purity of public men.

If a system compatible with the constitution cannot be devised, which is free from such tendencies, we should recollect that that instrument provides within itself the mode of its amendment; and that there is, therefore, no excuse for the assumption of doubtful powers by the General Government. If those which are clearly granted shall be found incompetent to the ends of its creation, it can, at any time, apply for their enlargement; and there is no probability that such an application, if founded on the public interest, will ever be refused. If the propriety of the proposed grant be not sufficiently apparent to command the assent of three-fourths of the States, the best possible reason why the power should not be assumed on doubtful authority is afforded; for if more than one-fourth of the States are unwilling to make the grant, its exercise will be productive of discontents which will far overbalance any advantages that could be derived from it. All must admit that there is nothing so worthy of the constant solicitude of this Government, as the harmony and union of the people.

Being solemnly impressed with the conviction that the extension of the power to make internal improvements beyond the limit I have suggested, even if it be deemed constitutional, is subversive of the best interests of our country, I earnestly recommend to Congress to refrain from its exercise, in doubtful cases, except in relation to improvements already begun, unless they shall first procure from the States such an amendment of the constitution as will define its character and prescribe its bounds. If the States feel competent to these objects, why should this Government wish to assume the power? If they do not, then they will not hesitate to make the grant. Both Governments are the Governments of the people: improvements must be made with the money of the people; and if the money can be collected and applied by those

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The President's Message.

[SENATE.]

more simple and economical political machines, the State Governments, it will unquestionably be safer and better for the people, than to add to the splendor, the patronage, and the power of the General Government. But if the people of the several States think otherwise, they will amend the constitution, and in their decision all ought cheerfully to acquiesce.

For a detailed and highly satisfactory view of the operations of the War Department, I refer you to the accompanying report of the Secretary of War.

The hostile incursions of the Sac and Fox Indians necessarily led to the interposition of the Government. A portion of the troops, under Generals Scott and Atkinson, and of the militia of the State of Illinois, were called into the field. After a harassing warfare, prolonged by the nature of the country and by the difficulty of procuring subsistence, the Indians were entirely defeated, and the disaffected band dispersed or destroyed. The result has been creditable to the troops engaged in the service. Severe as is the lesson to the Indians, it was rendered necessary by their unprovoked aggressions; and it is to be hoped that its impression will be permanent and salutary.

This campaign has evinced the efficient organization of the army, and its capacity for prompt and active service. Its several departments have performed their functions with energy and despatch, and the general movement was satisfactory.

Our fellow-citizens upon the frontiers were ready, as they always are, in the tender of their services in the hour of danger. But a more efficient organization of our militia system is essential to that security which is one of the principal objects of all Governments. Neither our situation nor our institutions require or permit the maintenance of a large regular force. History offers too many lessons of the fatal result of such a measure not to warn us against its adoption here. The expense which attends it, the obvious tendency to employ it because it exists, and thus to engage in unnecessary wars, and its ultimate danger to public liberty, will lead us, I trust, to place our principal dependence for protection upon the great body of the citizens of the republic. If, in asserting rights or in repelling wrongs, war should come upon us, our regular force should be increased to an extent proportioned to the emergency, and our present small army is a nucleus around which such force could be formed and embodied. But for the purposes of defence under ordinary circumstances, we must rely upon the electors of the country. Those by whom, and for whom, the Government was instituted and supported, will constitute its protection in the hour of danger, as they do its check in the hour of safety.

But it is obvious that the militia system is imperfect. Much time is lost, much unnecessary expense incurred, and much public property wasted under the present arrangement. Little useful knowledge is gained by the musters and drills, as now established, and the whole subject evidently requires a thorough examination. Whether a plan of classification, remedying these defects, and providing for a system of instruction, might not be adopted, is submitted to the consideration of Congress. The constitution has vested in the General Government an independent authority upon the subject of the militia, which renders its action essential to the establishment or improvement of the system. And I recommend the matter to your consideration, in

the conviction that the state of this important arm of the public defence requires your attention.

I am happy to inform you, that the wise and humane policy of transferring from the eastern to the western side of the Mississippi the remnants of our aboriginal tribes, with their own consent and upon just terms, has been steadily pursued, and is approaching, I trust, its consummation. By reference to the report of the Secretary of War, and to the documents submitted with it, you will see the progress which has been made since your last session, in the arrangement of the various matters connected with our Indian relations. With one exception, every subject involving any question of conflicting jurisdiction, or of peculiar difficulty, has been happily disposed of; and the conviction evidently gains ground among the Indians, that their removal to the country assigned by the United States for their permanent residence, furnishes the only hope of their ultimate prosperity.

With that portion of the Cherokees, however, living within the State of Georgia, it has been found impracticable, as yet, to make a satisfactory adjustment. Such was my anxiety to remove all the grounds of complaint, and to bring to a termination the difficulties in which they are involved, that I directed the very liberal propositions to be made to them which accompany the documents herewith submitted. They cannot but have seen in these offers the evidence of the strongest disposition, on the part of the Government, to deal justly and liberally with them. An ample indemnity was offered for their present possessions, a liberal provision for their future support and improvement, and full security for their private and political rights. Whatever difference of opinion may have prevailed respecting the just claims of these people, there will probably be none respecting the liberality of the propositions, and very little respecting the expediency of their immediate acceptance. They were however rejected, and thus the position of these Indians remained unchanged, as do the views communicated in my Message to the Senate, of February, 1831.

I refer you to the annual report of the Secretary of the Navy, which accompanies this Message, for a detail of the operations of that branch of the service during the present year.

Besides the general remarks on some of the transactions of our Navy, presented in the view which has been taken of our foreign relations, I seize this occasion to invite to your notice the increased protection which it has afforded to our commerce and citizens on distant seas, without any augmentation of the force in commission. In the gradual improvement of its pecuniary concerns, in the constant progress in the collection of materials suitable for use during future emergencies, and in the construction of vessels and the buildings necessary to their preservation and repair, the present state of this branch of the service exhibits the fruits of that vigilance and care which are so indispensable to its efficiency. Various new suggestions contained in the annexed report, as well as others heretofore submitted to Congress, are worthy of your attention; but none more so than that urging the renewal, for another term of six years, of the general appropriation for the gradual improvement of the Navy.

From the accompanying report of the Postmaster-General, you will also perceive that that Department continues to extend its usefulness, without impairing

its resources, or lessening the accommodations which it affords in the secure and rapid transportation of the mail.

I beg leave to call the attention of Congress to the views heretofore expressed in relation to the mode of choosing the President and Vice President of the United States, and to those respecting the tenure of office generally. Still impressed with the justness of those views, and with the belief that the modifications suggested on those subjects, if adopted, will contribute to the prosperity and harmony of the country, I earnestly recommend them to your consideration at this time.

I have heretofore pointed out the defects in the law for punishing official frauds, especially within the District of Columbia. It has been found almost impossible to bring notorious culprits to punishment; and according to a decision of the Court for this District, a prosecution is barred by a lapse of two years after the fraud has been committed. It may happen again, as it has already happened, that, during the whole two years, all the evidences of the fraud may be in the possession of the culprit himself. However proper the limitation may be in relation to private citizens, it would seem that it ought not to commence running in favor of public officers until they go out of office.

The Judiciary system of the United States remains imperfect. Of the nine Western and South-western States, three only enjoy the benefits of a Circuit Court. Ohio, Kentucky, and Tennessee, are embraced in the general system; but Indiana, Illinois, Missouri, Alabama, Mississippi, and Louisiana, have only District Courts. If the existing system be a good one, why should it not be extended? If it be a bad one, why is it suffered to exist? The new States were promised equal rights and privileges when they came into the Union, and such are the guarantees of the constitution. Nothing can be more obvious, than the obligation of the General Government to place all the States on the same footing in relation to the administration of justice, and I trust this duty will be neglected no longer.

On many of the subjects to which your attention is invited in this communication, it is a source of gratification to reflect that the steps to be now adopted are uninfluenced by the embarrassments entailed upon the country by the wars through which it has passed. In regard to most of our great interests, we may consider ourselves as just starting in our career, and, after a salutary experience, about to fix upon a permanent basis the policy best calculated to promote the happiness of the people, and facilitate their progress towards the most complete enjoyment of civil liberty. On an occasion so interesting and important in our history, and of such anxious concern to the friends of freedom throughout the world, it is our imperious duty to lay aside all selfish and local considerations, and be guided by a lofty spirit of devotion to the great principles on which our institutions are founded.

That this Government may be so administered as to preserve its efficiency in promoting and securing these general objects, should be the only aim of our ambition; and we cannot, therefore, too carefully examine its structure, in order that we may not mistake its powers, or assume those which the people have reserved to themselves, or have preferred to assign to other agents. We should bear constantly in mind the fact, that the considerations

which induced the framers of the constitution to withhold from the General Government the power to regulate the great mass of the business and concerns of the people, have been fully justified by experience; and that it cannot now be doubted that the genius of our institutions prescribes simplicity and economy as the characteristics of the reform which is yet to be effected in the present and future execution of the functions bestowed upon us by the constitution.

Limited to a general superintending power to maintain peace at home and abroad, and to prescribe laws on a few subjects of general interest, not calculated to restrict human liberty, but to enforce human rights, this Government will find its strength and its glory in the faithful discharge of these plain and simple duties. Relieved by its protecting shield from the fear of war, and the apprehension of oppression, the free enterprise of our citizens, aided by the State sovereignties, will work out improvements and ameliorations, which cannot fail to demonstrate that the great truth, that the people can govern themselves, is not only realized in our example, but that it is done by a machinery in Government so simple and economical as scarcely to be felt. That the Almighty Ruler of the Universe may so direct our deliberations, and overrule our acts, as to make us instrumental in securing a result so dear to mankind, is my most earnest and sincere prayer.

ANDREW JACKSON.

December 4, 1832.

Five thousand copies of the above Message were ordered to be printed.

THURSDAY, December 6.

The President laid before the Senate a communication from the Secretary of the Treasury, containing the Treasury report of the state of the finances, for the year 1832; which was ordered to be printed.*

* *Report of LOUIS McLANE, Esq., Secretary of the Treasury, on the Finances. Extracts:—*

I. THE PUBLIC DEBT.

"After the first of January next, no part of the public debt, except the remaining fragments of the unfunded debt, of which only small portions are occasionally presented, will be redeemable before the following year: and, though there will be in the Treasury, during the year, ample means to discharge the whole debt, they can be applied only to the purchase of stock at the market price. It is now manifest, that, if the Bank shares had been sold, and the proceeds applied to this object, the entire debt might, in this manner, have been extinguished within the present year. But it is, nevertheless, pleasing to reflect, that, after the present year, it may be considered as only a nominal debt; as the Bank shares, which have been actually paid for within the last four years, by the redemption of the stock subscribed for them, are greater in value than the whole amount of that debt: and the debt itself ceases to be a burthen, inasmuch as the dividends derived from the Bank shares yield more to the Treasury than will be required to pay the interest. The debt may, therefore, be considered as substantially extinguished after the first of January next; which is earlier than was looked for under the most prosperous and economical administration of our affairs that could have been anticipated. It will, nevertheless, be gratifying to the national pride, that every thing having even the appearance of debt should cease; and measures will therefore be adopted to invite the early presentation of all the outstanding stocks, that they may be paid off as fast as the means are received, and the evidences of the public debt finally cancelled. It will be a proud day for the American people, when, to all these honorable characteristics, which have rendered their

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French Spoliations.

[SENATE.]

Vetoed Bill.

The following Message was received from the President of the United States:

WASHINGTON, December 6, 1832.

To the Senate of the United States.

I avail myself of this early opportunity to return to the Senate, in which it originated, the bill entitled "An act providing for the final settlement of the claims of the States for interest on advances to the United States, made during the last war," with the reasons which induced me to withhold my approbation, in consequence of which it has failed to become a law.

This bill was presented to me for my signature on the last day of your session, and when I was compelled to consider a variety of other bills of greater urgency to the public service. It obviously embraced a principle in the allowance of interest different from that which had been sanctioned by the practice of the accounting officers, or by the previous legislation of Congress, in regard to advances by the States, and without any apparent grounds for the change.

Previously to giving my sanction to so great an extension of the practice of allowing interest upon accounts with the Government, and which, in its consequences, and from analogy, might not only call for large payments from the Treasury, but disturb the great mass of individual accounts long since finally settled, I deemed it my duty to make a more thorough investigation of the subject than it was possible for me to do previously to the close of your last session. I adopted this course the more readily, from the consideration that as the bill contained no appropriation, the States which would

have been entitled to claim its benefits could not have received them without the fuller legislation of Congress.

The principle which this bill authorizes, varies not only from the practice uniformly adopted by many of the accounting officers in the case of individual accounts, and in those of the States finally settled and closed previously to your last session, but also from that pursued under the act of your last session for the adjustment and settlement of the claims of the State of South Carolina. This last act prescribed no particular mode for the allowance of interest, which, therefore, in conformity with the directions of Congress in previous cases, and with the uniform practice of the Auditor by whom the account was settled, was computed on the sums expended by the State of South Carolina for the use and benefit of the United States, and which had been repaid to the State, and the payments made by the United States were deducted from the principal sums, exclusive of the interest, thereby stopping future interest on so much of the principal as had been reimbursed by the payment.

I deem it proper, moreover, to observe, that both under the act of the 5th of August, 1790, and that of the 12th of February, 1793, authorizing the settlement of the accounts between the United States and the individual States, arising out of the war of the Revolution, the interest on these accounts was computed in conformity with the practice already adverted to, and from which the bill now returned is a departure.

With these reasons and considerations, I return the bill to the Senate.

ANDREW JACKSON.

The Message was laid on the table, and ordered to be printed.

career so memorable among nations, they shall add the rare happiness of being a nation without debt."

II. INCOME AND EXPENDITURE.

"Taking an average of the importations for the last six years as a probable criterion of the ordinary importations for some years to come, the revenue from customs, at the rates of duty payable after the 3d March next, may be estimated at eighteen millions annually. The public lands, bank dividends, and other incidental receipts, may be estimated at three millions—making an aggregate revenue of about twenty-one millions a year. In the last annual report on the state of the finances, the probable expenses for all objects other than the public debt, were estimated at fifteen millions. This is still believed to be a fair estimate; and, if so, there will be an annual surplus of six millions of dollars.

"Still firmly convinced of the truth of the reasons then presented for a reduction of the revenue to the wants of the Government, I am again urged by a sense of duty to suggest that a further reduction of six millions of dollars be made, to take effect after the year 1833. Whether that shall consist altogether of a diminution of the duties on imports, or partly of a relinquishment of the public lands as a source of revenue, as then suggested, it will be for the wisdom of Congress to determine.

"Without adverting, in unnecessary details, to the considerations in favor of lessening the existing duties, which I had the honor to present, as well in the last annual report, as in that called for by special resolutions of the House of Representatives, I deem it proper to observe, that in my own mind these considerations have lost none of their force, but have derived new weight from subsequent reflection.

"The purity and simplicity of the institutions under which it has pleased Providence to make us a great and prosperous nation; the few objects—and those of a general nature—to which the powers of the Federal Government can be appropriately applied; and the great diversity of interests, which, from their local and geographical position, prevail in the several States comprising the Union, imperiously require that the amount of the public expenditure should be regulated by a prudent economy, and that no greater amount of revenue should be collected from the people than may be necessary for such a scale of expenditure."

TUESDAY, December 11.

French Spoliations.

Mr. WILKINS, pursuant to notice, asked and obtained leave to introduce a bill to provide for the satisfaction of claims due to certain American citizens for spoliations committed by France on their commerce, prior to the 30th September, 1800.

The bill was read twice, and on motion of Mr. WILKINS, ordered to be referred to a Select Committee of five members.

Mr. WILKINS said that, previous to the balloting for the committee, he wished to remark that, as it was probable the usual courtesy of the Senate in appointing the mover to be on the committee, might be extended to him in this case, he wished it to be understood that he did not desire to be on the committee. He would rather that, in his room, some gentleman might be appointed who was more conversant with commercial business. He desired, however, that it might be understood that he had in no way changed his original opinions on the subject of these claims.

The PRESIDENT replied that he believed it was the duty of the Chair to appoint the committee.

Mr. WILKINS. Then I wish the Chair to consider my remarks as addressed to himself.

Mr. SMITH. I do not think it very proper to appoint commercial gentlemen on this committee. They might be interested in the result.

[The following members were appointed by the Chair to compose the committee: Messrs. WEBSTER, CHAMBERS, DUDLEY, BROWN, TYLER.]

Election of Chaplain.

The Senate then proceeded to the election of a Chaplain; and the Rev. Mr. PISE was declared to be elected.

WEDNESDAY, December 12.

Public Lands.

Mr. CLAY, agreeably to notice, asked and obtained leave to introduce a bill to appropriate, for a limited time, the proceeds of the sales of the public lands in the United States, and for granting lands to certain States.

The bill having been read twice, and being before the Senate, as in Committee of the Whole,

Mr. CLAY said that this bill had been before two committees of the Senate, and that it had been passed at the last session by a considerable majority. He thought, therefore, that there would be no necessity for its reference to any committee at this session. The bill was precisely the same as the one which had passed the Senate last year, with the exception of the necessary change in the time when the bill would take effect. If, however, it was the wish of any Senator that the bill should be referred he had no objection. He would prefer to have the bill made the order for some convenient but not very distant day, when it might be taken up and discussed. If agreeable to the Senate, he would say the fourth Monday in this month, or the first Monday in January. He did not see that it was necessary to send the bill to a committee, but if any gentleman wished that course to be taken, he repeated, he should not object to it.

Mr. KANE said that it would be recollected that this subject had recently been referred to the Committee on Public Lands, by the reference to that committee of so much of the President's Message as relates to the public lands. An important proposition, indeed a new one, had come from the Executive on the subject of the public lands generally. That proposition was now before the committee; and he hoped that the gentleman from Kentucky would consent to a reference of his bill to the same committee. Mr. K. concluded by moving this reference.

The motion was agreed to, and the bill was referred to the Committee on Public Lands.

THURSDAY, December 13.

Reduction of Duties.

Mr. SMITH, instructed by the Committee on Finance, offered the following resolution:

Resolved, That the Secretary of the Treasury be directed, with as little delay as may be, to furnish the Senate with the project of a bill for reducing the duties levied upon imports, in conformity with the suggestions made by him in his annual report.

MONDAY, December 17.

Reduction of Duties.

Mr. POINDESTER offered the following resolution:

Resolved, That the Secretary of the Treasury be directed to report to the Senate, with as little delay as practicable, a detailed statement of the articles of foreign growth or manufacture, on which, in his opinion, the present rate of duties ought to be reduced, specifying particularly the amount of reduction on each article separately, so as to produce the result of an aggregate reduction of the revenue six millions of dollars, on such manufactures as are classed under the general denomination of protected articles; and that he also append to such report an enumeration of articles deemed to be "essential to our national independence in time of war," and which therefore ought, in his opinion, to be exempted from the operation of the proposed reduction of duties.

On motion of Mr. POINDESTER, the resolution was ordered to be printed.

MONDAY, January 7, 1833.

Public Lands.

The Senate proceeded to the special order of the day, being Mr. CLAY's bill for appropriating the proceeds of the public lands for a limited term, &c.

The question being on the amendment reported by the Committee on Public Lands, which substitutes a new bill, reducing the price of public lands,

[Mr. KANE, of Illinois, spoke at length against the bill, and Mr. CLAY in its favor, when it was laid on the table for the present.]

The Senate then adjourned.

FRIDAY, January 11.

South Carolina Resolutions: the Doctrine of Nullification, and the Right of Secession Declared.

Mr. MILLER presented certain resolutions of the Legislature of South Carolina, in reply to the proclamation of the President, viz:

Resolved, That the power vested by the constitution and laws in the President of the United States

JANUARY, 1833.]

Proceedings in relation to South Carolina.

[SENATE.]

to issue his proclamation, does not authorize him in that mode to interfere, whenever he may think fit, in the affairs of the respective States, or that he should use it as a means of promulgating Executive exposition of the constitution, with the sanction of force; thus superseding the action of the other departments of the General Government.

Resolved, That it is not competent to the President of the United States to order, by proclamation, the constituted authorities of a State to repeal their legislation; and that the late attempt of the President to do so is unconstitutional, and manifests a disposition to arrogate and exercise a power utterly destructive of liberty.

Resolved, That the opinions of the President in regard to the rights of the States are erroneous and dangerous, leading not only to the establishment of a consolidated Government in the stead of our free confederacy, but the concentration of all power in the chief Executive.

Resolved, That each State of this Union has the right, whenever it may deem such course necessary for the preservation of its liberty, or vital interest, to secede peaceably from the Union; and that there is no constitutional power in the General Government, much less in the Executive Department of that Government, to retain by force such State in the Union.

Resolved, That the primary and paramount allegiance of the citizens of this State, native or adopted, is of right due to this State.

Resolved, That the declaration of the President of the United States, in his said proclamation, of his personal feelings and retaliations towards the State of South Carolina, is rather an appeal to the loyalty of subjects than to the patriotism of citizens; and is a blending of official and individual character heretofore unknown in our State papers, and revolting to our conceptions of political propriety.

Resolved, That the undisguised indulgence of personal hostility in the said proclamation would be unworthy the animadversions of this Legislature, but for the solemn and official form of the instrument which is made its vehicle.

Resolved, That the principal doctrines and purposes contained in the said proclamation are inconsistent with any just idea of a limited Government, and subversive of the rights of the States and the liberties of the people; and, if submitted to in silence, would lay a broad foundation for the establishment of monarchy.

Resolved, That while this Legislature has witnessed with sorrow such a relaxation of the spirit of our institutions, that a President of the United States dares venture upon this high-handed measure, it regards with indignation the menaces which are directed against it, and the concentration of a standing army on our borders; that the State will repel force by force, and, relying on the blessing of God, will maintain its liberty at all hazards.

Resolved, That copies of these resolutions be sent to our members of Congress, to be laid before that body.

The resolutions were read and laid on the table, and ordered to be printed.

SATURDAY, January 12.

Public Lands.

The Senate passed to the consideration of the bill to appropriate, for a limited time, the proceeds of the sales of the public lands, &c. The question being on the amendment proposed by the Committee on Public Lands, Mr. BUCKNER, of Missouri, spoke at length against the bill.

MONDAY, January 14.

French Spoliations.

Mr. WEBSTER moved that the Senate proceed to the consideration of the bill to indemnify certain citizens of the United States for spoliations committed on their commerce by the French prior to 1800, which was agreed to.

The bill being then before the Senate, as in Committee of the Whole,

Mr. WEBSTER, in a speech of about two hours, developed the principles of the bill, and the grounds on which it was reported by the committee, and on which he should advocate its passage.

Mr. TYLER explained the difficulty he felt in bringing his mind to embrace this important subject, after so long an interval had transpired since he had looked into the subject; and moved to lay the bill on the table.

Mr. WEBSTER acquiesced in the motion, which was carried.

Proclamation against South Carolina Ordinance.

Mr. CALHOUN laid on the table the following resolution:

Resolved, That the President be requested to lay before the Senate a copy of his proclamation of the 10th of December last; and also the authenticated copies of the ordinance of the people of the State of South Carolina, with the documents accompanying the same; and of the proclamation of the Governor of the State of South Carolina of the 20th of December last, which was transmitted to him by the Executive of that State, with the request that he should lay them before Congress.

WEDNESDAY, January 16.

South Carolina—Nullification—Secession—Ordinance—Proclamation of President Jackson.

A Message was received from the President of the United States, transmitting copies of the proclamation and other documents relating to South Carolina, her ordinance, &c.

The Message and Proclamation were read. The Message was as follows:

Gentlemen of the Senate and House of Representatives of the United States:

In my annual Message, at the commencement of your present session, I adverted to the opposition

to the revenue laws in a particular quarter of the United States, which threatened not merely to thwart their execution, but to endanger the integrity of the Union. And although I then expressed my reliance that it might be overcome by the prudence of the officers of the United States and the patriotism of the people, I stated that, should the emergency arise rendering the execution of the existing laws impracticable from any cause whatever, prompt notice should be given to Congress, with the suggestion of such views and measures as might be necessary to meet it.

Events which have occurred in the quarter then alluded to, or which have come to my knowledge subsequently, present this emergency.

Since the date of my last annual Message, I have had officially transmitted to me by the Governor of South Carolina, which I now communicate to Congress, a copy of the ordinance passed by the convention which assembled at Columbia, in the State of South Carolina, in November last, declaring certain acts of Congress therein mentioned, within the limits of that State, to be absolutely null and void, and making it the duty of the Legislature to pass such laws as would be necessary to carry the same into effect from and after the 1st of February next.

The consequences to which this extraordinary defiance of the just authority of the Government might too surely lead, were clearly foreseen, and it was impossible for me to hesitate as to my own duty in such an emergency.

The ordinance had been passed, however, without any certain knowledge of the recommendation which, from a view of the interests of the nation at large, the Executive had determined to submit to Congress; and a hope was indulged that, by frankly explaining his sentiments, and the nature of those duties which the crisis would devolve upon him, the authorities of South Carolina might be induced to retrace their steps. In this hope, I determined to issue my proclamation of the 10th of December last, a copy of which I now lay before Congress.

I regret to inform you that these reasonable expectations have not been realized, and that the several acts of the Legislature of South Carolina, which I now lay before you, and which have, all and each of them, finally passed, after a knowledge of the desire of the Administration to modify the laws complained of, are too well calculated, both in their positive enactments, and in the spirit of opposition which they obviously encourage, wholly to obstruct the collection of the revenue within the limits of that State.

Up to this period, neither the recommendation of the Executive in regard to our financial policy and impost system, nor the disposition manifested by Congress promptly to act upon that subject, nor the unequivocal expression of the public will, in all parts of the Union, appears to have produced any relaxation in the measures of opposition adopted by the State of South Carolina; nor is there any reason to hope that the ordinance and laws will be abandoned.

I have no knowledge that an attempt has been made, or that it is in contemplation, to reassemble either the convention or the Legislature; and it will be perceived that the interval before the 1st of February is too short to admit of the preliminary steps necessary for that purpose. It appears, moreover, that the State authorities are actively organ-

izing their military resources, and providing the means, and giving the most solemn assurances of protection and support to all who shall enlist in opposition to the revenue laws.

A recent proclamation of the present Governor of South Carolina has openly defied the authority of the Executive of the Union, and general orders from the headquarters of the State announced his determination to accept the services of volunteers, and his belief that, should their country need their services, they will be found at the post of honor and duty, ready to lay down their lives in her defence. Under these orders, the forces referred to are directed to "hold themselves in readiness to take the field at a moment's warning;" and in the city of Charleston, within a collection district and a port of entry, a rendezvous has been opened for the purpose of enlisting men for the magazine and municipal guard. Thus, South Carolina presents herself in the attitude of hostile preparation, and ready even for military violence, if need be, to enforce her laws for preventing the collection of the duties within her limits.

Proceedings thus announced and matured must be distinguished from menaces of unlawful resistance by irregular bodies of people, who, acting under temporary delusion, may be restrained by reflection, and the influence of public opinion, from the commission of actual outrage. In the present instance, aggression may be regarded as committed when it is officially authorized, and the means of enforcing it fully provided.

Under these circumstances, there can be no doubt that it is the determination of the authorities of South Carolina fully to carry into effect their ordinance and laws after the 1st of February. It therefore becomes my duty to bring the subject to the serious consideration of Congress, in order that such measures as they, in their wisdom, may deem fit, shall be seasonably provided; and that it may be thereby understood that, while the Government is disposed to remove all just cause of complaint, as far as may be practicable consistently with a proper regard to the interests of the community at large, it is, nevertheless, determined that the supremacy of the laws shall be maintained.

In making this communication, it appears to me to be proper not only that I should lay before you the acts and proceedings of South Carolina, but that I should also fully acquaint you with those steps which I have already caused to be taken for the due collection of the revenue, and with my views of the subject generally, that the suggestions which the constitution requires me to make, in regard to your future legislation, may be better understood.

This subject having early attracted the anxious attention of the Executive, as soon as it was probable that the authorities of South Carolina seriously meditated resistance to the faithful execution of the revenue laws, it was deemed advisable that the Secretary of the Treasury should particularly instruct the officers of the United States in that part of the Union as to the nature of the duties prescribed by the existing laws.

Instructions were accordingly issued on the 6th of November to the collectors in that State, pointing out their respective duties, and enjoining upon each a firm and vigilant, but discreet performance of them in the emergency then apprehended.

I herewith transmit copies of these instructions,

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and of the letter addressed to the district attorney requesting his co-operation. These instructions were dictated in the hope that, as the opposition to the laws by the anomalous proceeding of nullification was represented to be of a pacific nature, to be pursued, substantially, according to the forms of the constitution, and without resorting, in any event, to force or violence, the measures of its advocates would be taken in conformity with that profession; and, on such supposition, the means afforded by the existing laws would have been adequate to meet any emergency likely to arise.

It was, however, not possible altogether to suppress apprehension of the excesses to which the excitement prevailing in that quarter might lead; but it certainly was not foreseen that the meditated obstruction to the laws would so soon openly assume its present character.

Subsequently to the date of those instructions, however, the ordinance of the convention was passed, which, if complied with by the people of that State, must effectually render inoperative the present revenue laws within her limits.

That ordinance declares and ordains, "that the several acts and parts of acts of the Congress of the United States, purporting to be laws for the imposing of duties and imposts on the importation of foreign commodities, and now having operation and effect within the United States; and, more especially, 'An act in alteration of the several acts imposing duties on imports,' approved on the 19th of May, 1828; and also an act entitled 'An act to alter and amend the several acts imposing duties on imports,' approved on the 14th July, 1832, are unauthorized by the Constitution of the United States, and violate the true intent and meaning thereof, and are null and void, and no law, nor binding upon the State of South Carolina, its officers, and citizens; and all promises, contracts, and obligations made or entered into, or to be made or entered into, with purpose to secure the duties imposed by the said acts, and all judicial proceedings which shall be hereafter had in affirmance thereof, are and shall be held utterly null and void."

It also ordains, "that it shall not be lawful for any of the constituted authorities, whether of the State of South Carolina or of the United States, to enforce the payment of duties imposed by the said acts within the limits of the State, but that it shall be the duty of the Legislature to adopt such measures, and pass such acts as may be necessary to give full effect to this ordinance, and to prevent the enforcement and arrest the operation of the said acts and parts of acts of the Congress of the United States, within the limits of the State, from and after the 1st of February next; and it shall be the duty of all other constituted authorities, and of all other persons residing or being within the limits of the State, and they are hereby required and enjoined to obey and give effect to this ordinance, and such acts and measures of the Legislature as may be passed or adopted in obedience thereto."

It further ordains, "that in no case of law or equity decided in the courts of the State, wherein shall be drawn in question the authority of this ordinance, or the validity of such act or acts of the Legislature as may be passed for the purpose of giving effect thereto, or the validity of the aforesaid acts of Congress imposing duties, shall any appeal be taken or allowed to the Supreme Court of

the United States, nor shall any copy of the record be permitted or allowed for that purpose; and the person or persons attempting to take such appeal, may be dealt with as for a contempt of court."

It likewise ordains, "that all persons holding any office of honor, profit, or trust, civil or military, under the State, shall, within such time, and in such manner as the Legislature shall prescribe, take an oath well and truly to obey, execute, and enforce this ordinance, and such act or acts of the Legislature as may be passed in pursuance thereof, according to the true intent and meaning of the same; and on the neglect or omission of any such person or persons so to do, his or their office or offices shall be forthwith vacated, and shall be filled up as if such person or persons were dead, or had resigned; and no person hereafter elected to any office of honor, profit, or trust, civil or military, shall, until the Legislature shall otherwise provide and direct, enter on the execution of his office, or be in any respect competent to discharge the duties thereof, until he shall in like manner have taken a similar oath; and no juror shall be empanelled in any of the courts of the State, in any cause in which shall be drawn in question this ordinance, or any act of the Legislature passed in pursuance thereof, unless he shall first, in addition to the usual oath, have taken an oath that he will well and truly obey, execute, and enforce this ordinance, and such act or acts of the Legislature as may be passed to carry the same into operation and effect, according to the true intent and meaning thereof."

The ordinance concludes: "And we, the people of South Carolina, to the end that it may be fully understood by the government of the United States, and the people of the co-States, that we are determined to maintain this ordinance and declaration at every hazard, do further declare that we will not submit to the application of force on the part of the Federal Government to reduce this State to obedience; but that we will consider the passage by Congress of any act authorizing the employment of a military or naval force against the State of South Carolina, her constituted authorities, or citizens; or any act abolishing or closing the ports of this State, or any of them, or otherwise obstructing the free ingress and egress of vessels to and from the said ports; or any other act on the part of the Federal Government to coerce the State, shut up her ports, destroy or harass her commerce, or to enforce the acts hereby declared to be null and void, otherwise than through the civil tribunals of the country, as inconsistent with the longer continuance of South Carolina in the Union; and that the people of this State will thenceforth hold themselves absolved from all further obligation to maintain or preserve their political connection with the people of the other States, and will forthwith proceed to organize a separate Government, and to do all other acts and things which sovereign and independent States may of right do."

This solemn denunciation of the laws and authority of the United States has been followed up by a series of acts on the part of the authorities of that State, which manifest a determination to render inevitable a resort to those measures of self-defence which the paramount duty of the Federal Government requires; but, upon the adoption of which, that State will proceed to execute the purpose it has avowed in this ordinance, of withdrawing from the Union.

On the 27th of November the Legislature assembled at Columbia; and on their meeting, the Governor laid before them the ordinance of the convention. In his message on that occasion, he acquaints them that "this ordinance has thus become a part of the fundamental law of South Carolina;" that "the die has been at last cast, and South Carolina has at length appealed to her ulterior sovereignty as a member of this confederacy, and has planted herself on her reserved rights. The rightful exercise of this power is not a question which we shall any longer argue. It is sufficient that she has willed it, and that the act is done; nor is its strict compatibility with our constitutional obligation to all laws passed by the General Government, within the authorized grants of power, to be drawn in question, when this interposition is exerted in a case in which the compact has been palpably, deliberately, and dangerously violated. That it brings up a conjuncture of deep and momentous interest, is neither to be concealed nor denied. This crisis presents a class of duties which is referable to yourselves. You have been commanded by the people in their highest sovereignty, to take care that within the limits of this State their will shall be obeyed." "The measure of legislation," he says, "which you have to employ at this crisis, is the precise amount of such enactments as may be necessary to render it utterly impossible to collect, within our limits, the duties imposed by the protective tariffs thus nullified." He proceeds: "that you should arm every citizen with a civil process, by which he may claim, if he pleases, a restitution of his goods, seized under the existing imposts, on his giving security to abide the issue of a suit at law, and at the same time define what shall constitute treason against the State, and by a bill of pains and penalties compel obedience, and punish disobedience to your own laws, are points too obvious to require any discussion. In one word, you must survey the whole ground. You must look to and provide for all possible contingencies. In your own limits, your own courts of judicature must not only be supreme, but you must look to the ultimate issue of any conflict of jurisdiction and power between them and the courts of the United States."

The Governor also asks for power to grant clearances, in violation of the laws of the Union; and, to prepare for the alternative which must happen unless the United States shall passively surrender their authority, and the Executive, disregarding his oath, refrain from executing the laws of the Union, he recommends a thorough revision of the militia system, and that the Governor "be authorized to accept, for the defence of Charleston and its dependencies, the services of two thousand volunteers, either by companies or files;" and that they be formed into a legionary brigade, consisting of infantry, riflemen, cavalry, field and heavy artillery; and that they be "armed and equipped from the public arsenals, completely for the field; and that appropriations be made for supplying all deficiencies in our munitions of war." In addition to these volunteer draughts, he recommends that the Governor be authorized "to accept the services of ten thousand volunteers from the other divisions of the State, to be organized and arranged in regiments and brigades; the officers to be selected by the commander-in-chief; and that this whole force be called the State Guard."

A request has been regularly made of the Secretary of State of South Carolina for authentic copies of the acts which have been passed for the purpose of enforcing the ordinance; but, up to the date of the latest advices, that request had not been complied with; and, on the present occasion, therefore, reference can only be made to those acts as published in the newspapers of the State.

The acts to which it is deemed proper to invite the particular attention of Congress, are:—

1st. "An act to carry into effect, in part, an ordinance to nullify certain acts of the Congress of the United States, purporting to be laws laying duties on the importation of foreign commodities," passed in convention of this State, at Columbia, on the 24th November, 1832.

This act provides that any goods seized or detained, under pretence of securing the duties, or for the non-payment of duties, or under any process, order, or decree, or other pretext, contrary to the intent and meaning of the ordinance, may be recovered by the owner or consignee by "an act of replevin." That, in case of refusing to deliver them, or removing them so that the replevin cannot be executed, the sheriff may seize the personal estate of the offender to double the amount of the goods; and if any attempt shall be made to retake or seize them, it is the duty of the sheriff to recapture them. And that any person who shall disobey the process, or remove the goods, or any one who shall attempt to retake or seize the goods under pretence of securing the duties, or for non-payment of duties, or under any process or decree contrary to the intent of the ordinance, shall be fined and imprisoned, besides being liable for any other offence involved in the act.

It also provides that any person arrested or imprisoned on any judgment or decree obtained in any federal court for duties, shall be entitled to the benefit secured by the *habeas corpus* act of the State in cases of unlawful arrest, and may maintain an action for damages; and that, if any estate shall be sold under such judgment or decree, the sale shall be held illegal. It also provides that any jailer who receives a person committed on any process or other judicial proceedings, to enforce the payment of duties, and any one who hires his house as a jail to receive such persons, shall be fined and imprisoned. And, finally, it provides that persons paying duties may recover them back with interest.

The next is called "An act to provide for the security and protection of the people of the State of South Carolina."

This act provides, that, if the Government of the United States, or any officer thereof, shall, by the employment of naval or military force, attempt to coerce the State of South Carolina into submission to the acts of Congress declared by the ordinance null and void, or to resist the enforcement of the ordinance, or of the laws passed in pursuance thereof, or in case of any armed or forcible resistance thereto, the Governor is authorized to resist the same, and to order into service the whole, or so much of the military force of the State as he may deem necessary; and that in case of any overt act of coercion, or intention to commit the same, manifested by an unusual assemblage of naval or military forces in or near the State, or the occurrence of any circumstances indicating that armed force is about to be employed against the State, or in resistance to its laws, the Governor is authorized

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to accept the services of such volunteers, and call into service such portions of the militia as may be required to meet the emergency.

The act also provides for accepting the service of the volunteers, and organizing the militia, embracing all free white males between the ages of sixteen and sixty, and for the purchase of arms, ordnance and ammunition. It also declares that the power conferred on the Governor shall be applicable to all cases of insurrection or invasion, or imminent danger thereof, and to cases where the laws of the State shall be opposed, and the execution thereof forcibly resisted by combinations too powerful to be suppressed by the power vested in the sheriffs and other civil officers; and declares it to be the duty of the Governor in every such case to call forth such portions of militia and volunteers as may be necessary promptly to suppress such combinations, and cause the laws of the State to be executed.

No. 9 is "An act concerning the oath required by the ordinance passed in convention at Columbia, on the 24th of November, 1832." This act prescribes the form of the oath, which is, to obey and execute the ordinance, and all acts passed by the Legislature in pursuance thereof; and directs the time and manner of taking it by the officers of the State, civil, judiciary, and military.

It is believed that other acts have been passed, embracing provisions for enforcing the ordinance, but I have not yet been able to procure them.

I transmit, however, a copy of Governor Hamilton's message to the Legislature of South Carolina, of Governor Hayne's inaugural address to the same body, as also of his proclamation, and a general order of the Governor and commander-in-chief, dated the 20th of December, giving public notice that the services of volunteers will be accepted under the act already referred to.

If these measures cannot be defeated and overcome by the power conferred by the constitution on the Federal Government, the constitution must be considered as incompetent to its own defence, the supremacy of the laws is at an end, and the rights and liberties of the citizens can no longer receive protection from the Government of the Union. They not only abrogate the acts of Congress, commonly called the tariff acts of 1828 and 1832, but they prostrate and sweep away at once, and without exception, every act, and every part of every act, imposing any amount whatever of duty on any foreign merchandise; and, virtually, every existing act which has ever been passed authorizing the collection of the revenue, including the act of 1816, and also, the collection law of 1799, the constitutionality of which has never been questioned. It is not only those duties which are charged to have been imposed for the protection of manufactures that are thereby repealed, but all others, though laid for the purpose of revenue merely, and upon articles in no degree suspected of being objects of protection. The whole revenue system of the United States in South Carolina is obstructed and overthrown; and the Government is absolutely prohibited from collecting any part of the public revenue within the limits of that State. Henceforth, not only the citizens of South Carolina and of the United States, but the subjects of foreign States, may import any description or quantity of merchandise into the ports of South Carolina, without the payment of any duty what-

soever. That State is thus relieved from the payment of any part of the public burdens, and duties and imposts are not only rendered not uniform throughout the United States, but a direct and ruinous preference is given to the ports of that State over those of all the other States of the Union, in manifest violation of the positive provisions of the constitution.

In point of duration, also, those aggressions upon the authority of Congress, which, by the ordinance, are made part of the fundamental law of South Carolina, are absolute, indefinite, and without limitation. They neither prescribe the period when they shall cease, nor indicate any conditions upon which those who have thus undertaken to arrest the operation of the laws are to retrace their steps, and rescind their measures. They offer to the United States no alternative but unconditional submission. If the scope of the ordinance is to be received as the scale of concession, their demands can be satisfied only by a repeal of the whole system of revenue laws, and by abstaining from the collection of any duties and imposts whatsoever.

It is true, that in the address to the people of the United States by the Convention of South Carolina, after announcing "the fixed and final determination of the State in relation to the protecting system," they say "that it remains for us to submit a plan of taxation, in which we would be willing to acquiesce, in a liberal spirit of concession, provided we are met in due time, and in a becoming spirit, by the States interested in manufactures." In the opinion of the convention, an equitable plan would be, that "the whole list of protected articles should be imported free of all duty, and that the revenue derived from import duties should be raised exclusively from the unprotected articles, or that whenever a duty is imposed upon protected articles imported, an excise duty of the same rate shall be imposed upon all similar articles manufactured in the United States." The address proceeds to state, however, that "they are willing to make a large offering to preserve the Union, and with a distinct declaration that it is a concession on our part, we will consent that the same rate of duty may be imposed upon the protected articles that shall be imposed upon the unprotected, provided that no more revenue be raised than is necessary to meet the demands of the Government for constitutional purposes, and provided also that a duty substantially uniform be imposed upon all foreign imports."

It is also true, that, in his message to the Legislature, when urging the necessity of providing "means of securing their safety by ample resources for repelling force by force," the Governor of South Carolina observes that he "cannot but think that, on a calm and dispassionate review by Congress, and the functionaries of the General Government, of the true merits of this controversy, the arbitration, by a call of a convention of all the States, which we sincerely and anxiously seek and desire, will be accorded to us."

From the diversity of terms indicated in these two important documents, taken in connection with the progress of recent events in that quarter, there is too much reason to apprehend, without in any manner doubting the intentions of those public functionaries, that neither the terms proposed in the address of the convention, nor those alluded to in the message of the Governor, would appease the

excitement which has led to the present excesses. It is obvious, however, that, should the latter be insisted on, they present an alternative which the General Government of itself can by no possibility grant, since, by an express provision of the constitution, Congress can call a convention for the purpose of proposing amendments only "on the application of the Legislatures of two-thirds of the States." And it is not perceived that the terms presented in the address are more practicable than those referred to in the message.

It will not escape attention that the conditions on which it is said, in the address of the convention, they "would be willing to acquiesce," form no part of the ordinance. While this ordinance bears all the solemnity of a fundamental law, is to be authoritative upon all within the limits of South Carolina, and is absolute and unconditional in its terms, the address conveys only the sentiments of the convention in no binding or practical form; one is the act of the State, the other only the expression of the opinions of the members of the convention. To limit the effect of that solemn act by any terms or conditions whatever, they should have been embodied in it, and made of import no less authoritative than the act itself. By the positive enactments of the ordinance, the execution of the laws of the Union is absolutely prohibited; and the address offers no other prospect of their being again restored, even in the modified form proposed, than what depends upon the improbable contingency, that, amid changing events and increasing excitement, the sentiments of the present members of the convention, and of their successors, will remain the same.

It is to be regretted, however, that these conditions, even if they had been offered in the same binding form, are so undefined, depend upon so many contingencies, and are so directly opposed to the known opinions and interests of the great body of the American people, as to be almost hopeless of attainment. The majority of the States and of the people will certainly not consent that the protecting duties shall be wholly abrogated, never to be re-enacted at any future time, or in any possible contingency. As little practicable is it to provide that "the same rate of duty shall be imposed upon the protected articles that shall be imposed upon the unprotected;" which, moreover, would be severely oppressive to the poor, and, in time of war, would add greatly to its rigors. And though there can be no objection to the principle, properly understood, that no more revenue shall be raised than is necessary for the constitutional purposes of the Government, which principle has been already recommended by the Executive as the true basis of taxation, yet it is very certain that South Carolina alone cannot be permitted to decide what these constitutional purposes are.

The period which constitutes the due time in which the terms proposed in the address are to be accepted, would seem to present scarcely less difficulty than the terms themselves. Though the revenue laws are already declared to be void in South Carolina, as well as the bonds taken under them, and the judicial proceedings for carrying them into effect, yet, as the full action and operation of the ordinance are to be suspended until the 1st of February, the interval may be assumed as the time within which it is expected that the most complicated portion of the national legislation, a system

of long standing, and affecting great interests in the community, is to be rescinded and abolished. If this be required, it is clear that a compliance is impossible.

In the uncertainty, then, that exists as to the duration of the ordinance, and of the enactments for enforcing it, it becomes imperiously the duty of the Executive of the United States, acting with a proper regard to all the great interests committed to his care, to treat those acts as absolute and unlimited. They are so, as far as his agency is concerned. He cannot either embrace or lead to the performance of the conditions. He has already discharged the only part in his power, by the recommendation in his annual Message. The rest is with Congress and the people; and until they have acted, his duty will require him to look to the existing state of things, and act under them, according to his high obligations.

By these various proceedings, therefore, the State of South Carolina has forced the General Government, unavoidably, to decide the new and dangerous alternative of permitting a State to obstruct the execution of the laws within its limits, or seeing it attempt to execute a threat of withdrawing from the Union. That portion of the people at present exercising the authority of the State, solemnly assert their right to do either, and as solemnly announce their determination to do one or the other.

In my opinion, both purposes are to be regarded as revolutionary in their character and tendency, and subversive of the supremacy of the laws and of the integrity of the Union. The result of each is the same; since a State in which, by a usurpation of power, the constitutional authority of the Federal Government is openly defied and set aside, wants only the form to be independent of the Union.

The right of a people of a single State to absolve themselves at will, and without the consent of the other States, from their most solemn obligations, and hazard the liberties and happiness of the millions composing this Union, cannot be acknowledged. Such authority is believed to be utterly repugnant both to the principles upon which the General Government is constituted, and to the objects which it is expressly formed to attain.

Against all acts which may be alleged to transcend the constitutional power of the Government, or which may be inconvenient or oppressive in their operation, the constitution itself has prescribed the modes of redress. It is the acknowledged attribute of free institutions, that, under them, the empire of reason and law is substituted for the power of the sword. To no other source can appeals for supposed wrongs be made, consistently with the obligations of South Carolina; to no other can such appeals be made with safety at any time; and to their decisions, when constitutionally pronounced, it becomes the duty, no less of the public authorities than of the people, in every case to yield a patriotic submission.

That a State, or any other great portion of the people, suffering under long and intolerable oppression, and having tried all constitutional remedies without the hope of redress, may have a natural right, when their happiness can be no otherwise secured, and when they can do so without greater injury to others, to absolve themselves from their obligations to the Government, and ap-

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peal to the last resort, needs not, on the present occasion, be denied.

The existence of this right, however, must depend upon the causes which may justify its exercise. It is the *ultima ratio*, which presupposes that the proper appeals to all other means of redress have been made in good faith, and which can never be rightfully resorted to unless it be unavoidable. It is not the right of the State, but of the individual, and of all the individuals in the State. It is the right of mankind generally to secure, by all means in their power, the blessings of liberty and happiness; but when, for these purposes, any body of men have voluntarily associated themselves under a particular form of Government, no portion of them can dissolve the association without acknowledging the correlative right in the remainder to decide whether that dissolution can be permitted consistently with the general happiness. In this view, it is a right dependent upon the power to enforce it. Such a right, though it may be admitted to pre-exist, and cannot be wholly surrendered, is necessarily subjected to limitations in all free Governments, and in compacts of all kinds, freely and voluntarily entered into, and in which the interest and welfare of the individual become identified with those of the community of which he is a member. In compacts between individuals, however deeply they may affect their relations, these principles are acknowledged to create a sacred obligation; and in compacts of civil Government, involving the liberties and happiness of millions of mankind, the obligation cannot be less.

Without adverting to the particular theories to which the Federal compact has given rise, both as to its formation and the parties to it, and without inquiring whether it be merely federal, or social, or national, it is sufficient that it must be admitted to be a compact, and to possess the obligations incident to a compact; to be "a compact by which power is created on the one hand, and obedience exacted on the other; a compact freely, voluntarily, and solemnly entered into by the several States, and ratified by the people thereof, respectively; a compact by which the several States, and the people thereof, respectively, have bound themselves to each other, and to the Federal Government, and by which the Federal Government is bound to the several States, and to every citizen of the United States." To this compact, in whatever mode it may have been done, the people of South Carolina have freely and voluntarily given their assent; and to the whole and every part of it, they are, upon every principle of good faith, inviolably bound. Under this obligation they are bound, and should be required to contribute their portion of the public expense, and to submit to all laws made by the common consent, in pursuance of the constitution, for the common defence and general welfare, until they can be changed in the mode which the compact has provided for the attainment of those great ends of the Government and the Union. Nothing less than causes which would justify revolutionary remedy, can absolve the people from this obligation; and for nothing less can the Government permit it to be done without violating its own obligations, by which, under the compact, it is bound to the other States, and to every citizen of the United States.

These deductions plainly flow from the nature of the federal compact, which is one of limitations,

not only upon the powers originally possessed by the parties thereto, but also upon those conferred on the Government, and every department thereof. It will be freely conceded that, by the principles of our system, all power is vested in the people; but to be exercised in the mode, and subject to the checks which the people themselves have prescribed. These checks are, undoubtedly, only different modifications of the same great popular principle which lies at the foundation of the whole, but are not, on that account, to be less regarded or less obligatory.

Upon the power of Congress, the veto of the Executive, and the authority of the Judiciary, which is to extend to all cases in law and equity arising under the constitution, and laws of the United States made in pursuance thereof, are the obvious checks; and the sound action of public opinion, with the ultimate power of amendment, is the salutary and only limitation upon the powers of the whole.

However it may be alleged that a violation of the compact, by the measures of the Government, can affect the obligations of the parties, it cannot even be pretended that such violation can be predicated of those measures until all the constitutional remedies shall have been fully tried. If the Federal Government exercise powers not warranted by the constitution, and immediately affecting individuals, it will scarcely be denied that the proper remedy is a recourse to the judiciary. Such, undoubtedly, is the remedy for those who deem the acts of Congress laying duties and imposts, and providing for their collection, to be unconstitutional. The whole operation of such laws is upon the individuals importing the merchandise. A State is absolutely prohibited from laying imposts or duties on imports or exports, without the consent of Congress, and cannot become a party, under these laws, without importing in her own name, or wrongfully interposing her authority against them. By thus interposing, however, she cannot rightfully obstruct the operation of the laws upon individuals. For their disobedience to, or violation of, the laws, the ordinary remedies through the judicial tribunals would remain. And in a case where an individual should be prosecuted for any offence against the laws, he could not set up, in justification of his act, a law of the State, which, being unconstitutional, would therefore be regarded as null and void. The law of a State cannot authorize the commission of a crime against the United States, or any other act which, according to the supreme law of the Union, would be otherwise unlawful. And it is equally clear, that, if there be any case in which a State, as such, is affected by the law beyond the scope of judicial power, the remedy consists in appeals to the people, either to effect a change in the representation, or to procure relief by an amendment of the constitution. But the measures of the Government are to be recognized as valid, and, consequently, supreme, until these remedies shall have been effectually tried; and any attempt to subvert those measures, or to render the laws subordinate to State authority, and, afterwards, to resort to constitutional redress, is worse than evasive. It would not be a proper resistance to "a Government of unlimited powers," as has been sometimes pretended, but unlawful opposition to the very limitations on which the harmonious action of the Government, and all its parts, absolutely depends.

South Carolina has appealed to none of these remedies, but, in effect, has defied them all. While threatening to separate from the Union, if any attempt be made to enforce the revenue laws otherwise than through the civil tribunals of the country, she has not only not appealed in her own name to those tribunals which the constitution has provided for all cases in law or equity arising under the Constitution and laws of the United States, but has endeavored to frustrate the proper action on her citizens, by drawing the cognizance of cases under the revenue laws to her own tribunals, especially prepared and fitted for the purpose of enforcing the acts passed by the State to obstruct those laws, and both the judges and jurors of which will be bound, by the import of oaths previously taken, to treat the Constitution and laws of the United States in this respect as a nullity. Nor has the State made the proper appeal to public opinion, and to the remedy of amendment. For, without waiting to learn whether the other States will consent to a convention, or, if they do, will construe or amend the constitution to suit her views, she has, of her own authority, altered the import of that instrument, and given immediate effect to the change. In fine, she has set her own will and authority above the laws, has made herself arbiter in her own cause, and has passed at once over all intermediate steps to measures of avowed resistance, which, unless they be submitted to, can be enforced only by the sword.

In deciding upon the course which a high sense of duty to all the people of the United States imposes upon the authorities of the Union, in this emergency, it cannot be overlooked that there is no sufficient cause for the acts of South Carolina, or for her thus placing in jeopardy the happiness of so many millions of people. Misrule and oppression, to warrant the disruption of the free institutions of the Union of these States, should be great and lasting, defying all other remedy. For causes of minor character, the Government could not submit to such a catastrophe without a violation of its most sacred obligations to the other States of the Union who have submitted their destiny to its hands.

There is, in the present instance, no such cause, either in the degree of misrule or oppression complained of, or in the hopelessness of redress by constitutional means. The long sanction they have received from the proper authorities, and from the people, not less than the unexampled growth and increasing prosperity of so many millions of freemen, attest that no such oppression as would justify or even palliate such a resort, can be justly imputed either to the present policy or past measures of the Federal Government. The same mode of collecting duties, and for the same general objects, which began with the foundation of the Government, and which has conducted the country, through its subsequent steps, to its present enviable condition of happiness and renown, has not been changed. Taxation and representation, the great principle of the American revolution, have continually gone hand in hand; and at all times, and in every instance, no tax, of any kind, has been imposed without their participation; and in some instances, which have been complained of, with the express assent of a part of the Representatives of South Carolina in the councils of the Government. Up to the present period, no revenue has been raised beyond the necessary wants of the country and the authorized

expenditures of the Government. And as soon as the burden of the public debt is removed, those charged with the administration have promptly recommended a corresponding reduction of revenue.

That this system, thus pursued, has resulted in no such oppression upon South Carolina, needs no other proof than the solemn and official declaration of the late Chief Magistrate of that State, in his address to the Legislature. In that he says, that "the occurrences of the past year, in connection with our domestic concerns, are to be reviewed with a sentiment of fervent gratitude to the Great Disposer of human events; that tributes of grateful acknowledgment are due for the various and multiplied blessings he has been pleased to bestow on our people; that abundant harvests, in every quarter of the State, have crowned the exertions of agricultural labor; that health, almost beyond former precedent, has blessed our homes; and that there is not less reason for thankfulness in surveying our social condition." It would, indeed, be difficult to imagine oppression where, in the social condition of a people, there was equal cause of thankfulness as for abundant harvests, and varied and multiplied blessings with which a kind Providence had favored them.

Independently of these considerations, it will not escape observation that South Carolina still claims to be a component part of the Union; to participate in the national councils, and to share in the public benefits, without contributing to the public burdens; thus asserting the dangerous anomaly of continuing in an association without acknowledging any other obligation to its laws than what depends upon her own will.

In this posture of affairs, the duty of the Government seems to be plain. It inculcates a recognition of that State as a member of the Union, and subject to its authority; a vindication of the just power of the constitution; the preservation of the integrity of the Union; and the execution of the laws by all constitutional means.

The constitution, which his oath of office obliges him to support, declares that the Executive "shall take care that the laws be faithfully executed," and, in providing that he shall, from time to time, give to Congress information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient, imposes the additional obligation of recommending to Congress such more efficient provision for executing the laws as may, from time to time, be found requisite.

The same instrument confers on Congress the power not merely to lay and collect taxes, duties, imposts, and excises, to pay the debts, and provide for the common defence and general welfare, but "to make all laws which shall be necessary and proper for carrying into effect the foregoing powers, and all other powers vested by the constitution in the Government of the United States, or in any department or officer thereof;" and also to provide for calling forth the militia for executing the laws of the Union. In all cases similar to the present, the duties of the Government become the measure of its powers; and whenever it fails to exercise a power necessary and proper to the discharge of the duty prescribed by the constitution, it violates the public trusts not less than it would in transcending its proper limits. To refrain, therefore, from the high and solemn duties thus enjoined, however

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painful the performance may be, and thereby tacitly permit the rightful authority of the Government to be contemned, and its laws obstructed by a single State, would neither comport with its own safety, nor the rights of the great body of the American people.

It being thus shown to be the duty of the Executive to execute the laws by all constitutional means, it remains to consider the extent of those already at his disposal, and what it may be proper further to provide.

In the instructions of the Secretary of the Treasury to the collectors in South Carolina, the provisions and regulations made by the act of 1799, and also the fines, penalties, and forfeitures, for their enforcement, are particularly detailed and explained. It may be well apprehended, however, that these provisions may prove inadequate to meet such an open, powerful, organized opposition, as is to be commenced after the 1st of February next.

Subsequently to the date of these instructions, and to the passage of the ordinance, information has been received, from sources entitled to be relied on, that, owing to the popular excitement in the State, and the effect of the ordinance declaring the execution of the revenue laws unlawful, a sufficient number of persons, in whom confidence might be placed, could not be induced to accept the office of inspector, to oppose with any probability of success, the force which will, no doubt, be used when an attempt is made to remove vessels and their cargoes from the custody of the officers of the customs; and, indeed, that it would be impracticable for the collector, with the aid of any number of inspectors whom he may be authorized to employ, to preserve the custody against such an attempt.

The removal of the custom-house from Charleston to Castle Pinckney was deemed a measure of necessary precaution; and though the authority to give that direction is not questioned, it is nevertheless apparent that a similar precaution cannot be observed in regard to the ports of Georgetown and Beaufort, each of which, under the present laws, remains a port of entry, and exposed to the obstructions meditated in that quarter.

In considering the best means of avoiding or of preventing the apprehended obstruction to the collection of the revenue, and the consequences which may ensue, it would appear to be proper and necessary, to enable the officers of the customs to preserve the custody of vessels and their cargoes, which, by the existing laws, they are required to take, until the duties to which they are liable shall be paid or secured. The mode by which it is contemplated to deprive them of that custody, is the process of replevin, and that of *capias in withernam*, in the nature of a distress from the state tribunals organized by the ordinance.

Against the proceeding in the nature of a distress, it is not perceived that the collector can interpose any resistance whatever; and against the process of replevin authorized by the law of the State, he, having no common law power, can only oppose such inspectors as he is by statute authorized, and may find it practicable to employ; and these, from the information already adverted to, are shown to be wholly inadequate.

The respect which that process deserves must, therefore, be considered.

If the authorities of South Carolina had not obstructed the legitimate action of the courts of the

United States, or if they had permitted the State tribunals to administer the law according to their oath under the constitution, and the regulations of the laws of the Union, the General Government might have been content to look to them for maintaining the custody, and to encounter the other inconveniences arising out of the recent proceedings. Even in that case, however, the process of replevin from the courts of the State would be irregular and unauthorized. It has been decided by the Supreme Court of the United States that the courts of the United States have exclusive jurisdiction of all seizures made on land or water for a breach of the laws of the United States, and any intervention of a State authority, which, by taking the thing seized out of the hands of the United States officer, might obstruct the exercise of this jurisdiction, is unlawful; that, in such case, the court of the United States having cognizance of the seizure, may enforce a re-delivery of the thing by attachment or other summary process: that the question under such a seizure, whether a forfeiture has been actually incurred, belongs exclusively to the courts of the United States, and it depends on the final decree whether the seizure is to be deemed rightful or tortuous; and that not until the seizure be finally judged wrongful, and without probable cause, by the courts of the United States, can the party proceed at common law for damages in the State courts.

But by making it "unlawful for any of the constituted authorities, whether of the United States or of the State, to enforce the laws for the payment of duties, and declaring that all judicial proceedings which shall be hereafter had in affirmance of the contracts made with purpose to secure the duties imposed by the said acts, are, and shall be, held utterly null and void," she has, in effect, abrogated the judicial tribunals within her limits in this respect—has virtually denied the United States access to the courts established by their own laws, and declared it unlawful for the judges to discharge those duties which they are sworn to perform. In lieu of these, she has substituted those State tribunals already adverted to, the judges whereof are not merely forbidden to allow an appeal, or permit a copy of their record, but are previously sworn to disregard the laws of the Union, and enforce those only of South Carolina; and thus deprived of the function essential to the judicial character, of inquiring into the validity of the law, and the right of the matter, become merely ministerial instruments in aid of the concerted obstruction of the laws of the Union.

Neither the process nor authority of these tribunals, thus constituted, can be respected, consistently with the supremacy of the laws, or the rights and security of the citizen. If they be submitted to, the protection due from the Government to its officers and citizens is withheld, and there is, at once, an end, not only to the laws, but to the Union itself.

Against such a force as the sheriff may, and which, by the replevin law of South Carolina, it is his duty to exercise, it cannot be expected that a collector can retain his custody with the aid of the inspectors. In such case, it is true, it would be competent to institute suits in the United States courts against those engaged in the unlawful proceeding: or the property might be seized for a violation of the revenue laws, and, being libelled in the proper courts, an order might be made for its redelivery,

which would be committed to the marshal for execution. But, in that case, the fourth section of the act, in broad and unqualified terms, makes it the duty of the sheriff "to prevent such recapture or seizure, or to redeliver the goods, as the case may be," "even under any process, order or decrees, or other pretext, contrary to the true intent and meaning of the ordinance aforesaid." It is thus made the duty of the sheriff to oppose the process of the courts of the United States; and, for that purpose, if need be, to employ the whole power of the county; and the act expressly reserves to him all power which, independently of its provisions, he could have used. In this reservation, it obviously contemplates a resort to other means than those particularly mentioned.

It is not to be disguised that the power which it is thus enjoined upon the sheriff to employ, is nothing less than the *potestas comitatus*, in all the rigor of the ancient common law. This power, though it may be used against unlawful resistance to judicial process, is, in its character, forcible, and analogous to that conferred upon the marshals by the act of 1796. It is, in fact, the embodying of the whole mass of the population, under the command of a single individual, to accomplish, by their forcible aid, what could not be effected peaceably, and by the ordinary means. It may properly be said to be the relic of those ages in which the laws could be defended rather by physical than moral force, and, in its origin, was conferred upon the sheriffs of England to enable them to defend their country against any of the King's enemies when they came into the land, as well as for the purpose of executing process. In early and less civilized times, it was intended to include "the aid and attendance of all knights and others who were bound to have harness." It includes the right of going with arms and military equipment, and embraces larger classes and greater masses of population than can be compelled by the laws of most of the States to perform militia duty. If the principles of the common law are recognized in South Carolina, (and from this act it would seem they are,) the power of summoning the *potestas comitatus* will compel, under the penalty of fine and imprisonment, every man over the age of fifteen, and able to travel, to turn out, at the call of the sheriff, and with such weapons as may be necessary; and it may justify beating, and even killing, such as may resist. The use of the *potestas comitatus* is, therefore, a direct application of force, and cannot be otherwise regarded than as the employment of the whole militia force of the country, and in an equally efficient form under a different name. No proceeding which resorts to this power, to the extent contemplated by the act, can be properly denominated peaceable.

The act of South Carolina, however, does not rely altogether upon this formidable remedy. For even attempting to resist or obey—though by the aid only of the ordinary officers of the customs—the process of replevin, the collector and all concerned are subjected to a further proceeding, in the nature of a distress of their personal effects; and are, moreover, made guilty of a misdemeanor, and liable to be punished by a fine of not less than one thousand, nor more than five thousand dollars, and to imprisonment not exceeding two years, and not less than six months; and for even attempting to execute the order of the court for retaking the property, the marshal, and all assisting, would be guilty of a mis-

demeanor, and liable to a fine of not less than three thousand dollars, nor more than ten thousand, and to imprisonment not exceeding two years, nor less than one; and, in case the goods should be retaken under such process, it is made the absolute duty of the sheriff to retake them.

It is not to be supposed that, in the face of these penalties, aided by the powerful force of the county, which would doubtless be brought to sustain the State officers, either that the collector would retain the custody in the first instance, or that the marshal could summon sufficient aid to retake the property, pursuant to the order or other process of the court.

It is, moreover, obvious that in this conflict between the powers of the officers of the United States and of the State, (unless the latter be passively submitted to,) the destruction to which the property of the officers of the customs would be exposed, the commission of actual violence, and the loss of lives, would be scarcely avoidable.

Under these circumstances, and the provisions of the act of South Carolina, the execution of the laws is rendered impracticable even through the ordinary judicial tribunals of the United States. There would certainly be fewer difficulties, and less opportunity of actual collision between the officers of the United States and of the State, and the collection of the revenue would be more effectually secured—if indeed it can be done in any other way—by placing the custom-house beyond the immediate power of the county.

For this purpose, it might be proper to provide that whenever, by any unlawful combination or obstruction in any State, or in any port, it should become impracticable faithfully to collect the duties, the President of the United States should be authorized to alter and abolish such of the districts and ports of entry as should be necessary, and to establish the custom-house at some secure place within some port or harbor of such State; and, in such cases, it should be the duty of the collector to reside at such place, and to detain all vessels and cargoes until the duties imposed by law should be properly secured or paid in cash, deducting interest; that, in such cases, it should be unlawful to take the vessel and cargo from the custody of the proper officer of the customs, unless by process from the ordinary judicial tribunals of the United States; and that, in case of an attempt otherwise to take the property by a force too great to be overcome by the officers of the customs, it should be lawful to protect the possession of the officers by the employment of the land and naval forces, and militia, under provisions similar to those authorized by the 11th section of the act of the 9th of January, 1809.

This provision, however, would not shield the officers and citizens of the United States, acting under the laws, from suits and prosecutions, in the tribunals of the State, which might thereafter be brought against them; nor would it protect their property from the proceeding by distress; and it may well be apprehended that it would be insufficient to insure a proper respect to the process of the constitutional tribunals in prosecutions for offences against the United States, and to protect the authorities of the United States, whether judicial or ministerial, in the performance of their duties. It would, moreover, be inadequate to extend the protection due from the Government to that portion of the people of South Carolina, against outrage and

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oppression of any kind, who may manifest their attachment, and yield obedience to the laws of the Union.

It may, therefore, be desirable to review, with some modifications better adapted to the occasion, the 6th section of the act of the 3d of March, 1815, which expired on the 4th of March, 1817, by the limitation of that of the 27th of April, 1816; and to provide that, in any case, where suit shall be brought against any individual in the courts of the State, for any act done under the laws of the United States, he should be authorized to remove the said cause, by petition, into the circuit court of the United States, without any copy of the record, and that the courts should proceed to hear and determine the same as if it had been originally instituted therein. And that in all cases of injuries to the persons or property of individuals for disobedience to the ordinance, and laws of South Carolina in pursuance thereof, redress may be sought in the courts of the United States. It may be expedient, also, by modifying the resolution of the 3d of March, 1791, to authorize the marshals to make the necessary provision for the safe keeping of prisoners committed under the authority of the United States.

Provisions less than these, consisting, as they do, for the most part, rather of a revival of the policy of former acts called for by the existing emergency, than of the introduction of any unusual or rigorous enactments, would not cause the laws of the Union to be properly respected or enforced. It is believed these would prove inadequate, unless the military forces of the State of South Carolina, authorized by the late act of the Legislature, should be actually embodied and called out in aid of their proceedings, and of the provisions of the ordinance generally. Even in that case, however, it is believed that no more will be necessary than a few modifications of its terms, to adapt the act of 1795 to the present emergency, as, by that act, the provisions of the law of 1792 were accommodated to the crisis then existing; and by conferring authority upon the President to give it operation during the session of Congress, and without the ceremony of a proclamation, whenever it shall be officially made known to him by the authority of any State, or by the courts of the United States, that, within the limits of such State, the laws of the United States will be openly opposed, and their execution obstructed, by the actual employment of military force, or by any unlawful means whatsoever, too great to be otherwise overcome.

In closing this communication, I should do injustice to my own feelings not to express my confident reliance upon the disposition of each department of the Government to perform its duty, and to co-operate in all measures necessary in the present emergency.

The crisis undoubtedly invokes the fidelity of the patriot and the sagacity of the statesman, not more in removing such portion of the public burden as may be necessary, than in preserving the good order of society, and in the maintenance of well-regulated liberty.

While a forbearing spirit may, and I trust will, be exercised towards the errors of our brethren in a particular quarter, duty to the rest of the Union demands that open and organized resistance to the laws should not be executed with impunity.

The rich inheritance bequeathed by our fathers has devolved upon us the sacred obligation of pre-

serving it by the same virtues which conducted them through the eventful scenes of the revolution, and ultimately crowned their struggles with the noblest model of civil institutions. They bequeathed to us a Government of laws, and a Federal Union founded upon the great principle of popular representation. After a successful experiment of forty four years, at a moment when the Government and the Union are the objects of the hopes of the friends of civil liberty throughout the world, and in the midst of public and individual prosperity unexampled in history, we are called to decide whether these laws possess any force, and that Union the means of self-preservation. The decision of this question by an enlightened and patriotic people cannot be doubtful. For myself, fellow-citizens, devoutly relying upon that kind Providence which has hitherto watched over our destinies, and actuated by a profound reverence for those institutions I have so much cause to love, and for the American people, whose partiality honored me with their highest trust, I have determined to spare no effort to discharge the duty which, in this conjuncture, is devolved upon me. That a similar spirit will actuate the representatives of the American people, is not to be questioned; and I fervently pray that the Great Ruler of nations may so guide your deliberations, and our joint measures, as that they may prove salutary examples, not only to the present, but to future times; and solemnly proclaim that the constitution and the laws are supreme, and the Union indissoluble.

ANDREW JACKSON.

WASHINGTON, January, 1833.

TUESDAY, JANUARY 22.

Powers of the Government—Mr. Calhoun's Resolutions.

Mr. CALHOUN submitted the following resolutions:

"Resolved, That the people of the several States composing these United States are united as parties to a constitutional compact, to which the people of each State acceded as a separate sovereign community, each binding itself by its own particular ratification; and that the Union, of which the said compact is the bond, is a union between the States ratifying the same.

"Resolved, That the people of the several States, thus united by the constitutional compact, in forming that instrument, and in creating a General Government to carry into effect the objects for which they were formed, delegated to that Government for that purpose, certain definite powers, to be exercised jointly, reserving at the same time, each State to itself, the residuary mass of powers, to be exercised by its own separate Government; and that whenever the General Government assumes the exercise of powers not delegated by the compact, its acts are unauthorized, and are of no effect; and that the same Government is not made the final judge of the powers delegated to it, since that would make its discretion, and not the constitution, the measure of its powers; but that, as in all other cases of compact among sovereign parties, without any common judge, each has an equal right to judge for itself, as well of the infraction as of the mode and measure of redress.

"Resolved, That the assertions that the people of these United States, taken collectively as individuals, are now, or ever have been, united on the principle of the social compact, and as such are now formed into one nation or people, or that they have ever been so united in any one stage of their political existence; that the people of the several States composing the Union have not, as members thereof, retained their sovereignty; that the allegiance of their citizens have been transferred to the General Government; that they have parted with the right of punishing treason through their respective State Governments; and that they have not the right of judging in the last resort as to the extent of the powers reserved, and, of consequence, of those delegated; are not only without foundation in truth, but are contrary to the most certain and plain historical facts, and the clearest deductions of reason; and all exercise of power on the part of the General Government, or any of its departments, claiming authority from so erroneous assumptions, must of necessity be unconstitutional, must tend directly and inevitably to subvert the sovereignty of the States, to destroy the federal character of the Union, and to rear on its ruins a consolidated Government, without constitutional check or limitation, and which must necessarily terminate in the loss of liberty itself."

The resolutions were ordered to be printed.

WEDNESDAY, January 23.

Powers of the Government—Mr. Grundy's Resolutions.

MR. GRUNDY moved the following as a substitute for the original [Mr. CALHOUN's] resolutions.

"Resolved, That, by the Constitution of the United States, certain powers are delegated to the General Government, and those not delegated nor prohibited to the States are reserved to the States, respectively, or to the people.

"2. Resolved, That one of the powers expressly granted by the constitution to the General Government, and prohibited to the States, is that of laying duties on imports.

"3. Resolved, That the power to lay imposts is by the constitution wholly transferred from the State authorities to the General Government, without any reservation of power or right on the part of the State.

"4. Resolved, That the tariff laws of 1828 and 1832 are exercises of the constitutional power possessed by the Congress of the United States, whatever various opinions may exist as to their policy and justice.

"5. Resolved, That an attempt on the part of a State to annul an act of Congress passed upon any subject exclusively confided by the constitution to Congress, is an encroachment on the rights of the General Government.

"6. Resolved, That attempts to obstruct or prevent the execution of the several acts of Congress imposing duties on imports, whether by ordinances of conventions or legislative enactments, are not warranted by the constitution, and are dangerous to the political institutions of the country."

THURSDAY, January 24.

Public Lands—Distribution.

The Senate again proceeded to the consideration of the bill to appropriate, for a limited time, the proceeds of the sales of the public lands, &c.

Mr. BENTON rose in opposition to the bill. Sir, said Mr. B., the primary conception of this bill—its distributive principle—is unconstitutional; its specific enactments, and selection of objects for the application of the distribution, are so many separate, distinct, and accumulated instances of constitutional violation. The assumption of State debts was a new and portentous attack upon the sanctity of that instrument; the more dangerous, because it carried a corrupt temptation along with it. States in debt could only consult their necessities, not the constitution, when the means of paying their debts were exhibited to them from the federal treasury. The practice once begun, it would be immaterial for what purpose the debt was created. The present assumption is for a class of debts which the wildest latitudinarian never pretended could come under the federal expenditure. It is internal improvement, not national, but local, to the State in which they were made; such as a State legislature directs for the benefit of counties, parishes, and sectional divisions of its territory. The appropriation for general education was a new attempt to violate the constitution at a point at which it had been successfully defended for forty years. The application of the federal funds for the support of a free negro colony on the coast of Africa was now for the first time seriously attempted. It implied the right of Congress to apply those funds in the emancipation of slaves; for the right to remove, and provide for the free blacks, could only be appurtenant to the right to make them free. It implied the right to stretch the Constitution of the United States over the continent of Africa; to make it cover two continents, and two distinct races of people; to make it what the enchanted tent was in the Arabian Nights—a thing so small that it might be held in the palm of the hand, and yet so expansive that it might be stretched over the court and army of the Great Mogul.

Passing from these constitutional objections, which he barely enumerated, Mr. B. went on to dilate upon those which applied to its policy and expediency. At the head of this list he placed the peculiar character, or composition, of the bill itself. It was a compound of ingredients, containing something to suit every palate. Lands and money, roads and canals, free schools and high schools, relief to debtors, emancipation and colonization of slaves! Such was the cargo with which it was freighted! It came into the Senate chamber, with money in every clause, to pay its way through, as the souls of the damned arrived on the banks of the river Styx, with money in hand to pay their passage into hell. The surly Charon never refused a soul that had the money; in this polite

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assembly, so munificent a bill cannot be turned out of doors. Gentlemen might turn themselves out of doors if they did. A hue and cry might be raised against them if they deprived their constituents of such large *douceurs*. It was easy to see how such a bill must operate upon the imagination of members; seduction on one hand, terror on the other. To accept the allotted portion might be to pierce the constitution, like the robe of Cæsar, with the stabs of twenty daggers; to reject it, might be to jeopard the occupation of these curule chairs, so dear to the possessors, and so hardly regained when one time lost. It was wrong to put members to choose between such alternatives. It was legislative duress. Morality condemned it; purity recoiled from it; Senatorial dignity should repel it.

Mr. B. next proceeded to lay open the true character of the bill, which, he said, had been smuggled into the Senate under a false name, and covered with a veil—a veil too thin to hide its woolly head and iron heart. It was a tariff bill! calculated to keep up the scale of high duties, and to inflame the discontents of the country. Its high tariff character was proved by its origin, for it emanated from the Committee on Manufactures; it was proved by its supporters, for every high tariff Senator was for it; it was proved by its effects, for its passage would put an end to the bill for the reduction of duties. Far and wide, in Congress and out of Congress, it is hailed as a high tariff measure, as a part of the American system! and to be defended and supported by all the advocates of that system. All the high tariff States are for it. Their legislatures have adopted it. Their memorials to Congress enforce and demand it.

Mr. B. next objected to the distribution itself, as a fallacy, an illusion, and a deception. It was to divide out certain parcels of money with one hand, and to gather back still larger parcels with the other. Fifty or one hundred thousand dollars were to be distributed to a State from the land fund, and twice or thrice that amount to be taken from that same State in taxes upon salt, iron, blankets, flannels, cotton, and woollens, and all the comforts and necessities of life. Two millions were to be distributed from the land fund, and three millions, by the admission of the high tariff party, to be retained in its place, in duties upon imports. A retention of three millions of duties is admitted, but everybody knows that a pretext will be found in this retention to keep up the whole surplus revenue. To the high tariff States, then, this distribution is a double bounty; first, in giving them the proceeds of the lands; and, secondly, in giving them six or eight millions of additional bounties in manufactures. To the anti-tariff States it is delusive bait—insidious cheat—to beguile them with farthings while plundering them of pounds.

Mr. B. remarked upon the preliminary distribution of 12½ per cent. to the new States, as a falsification of the whole argument on which

the bill rested. That argument was, that the lands belonged to all the States; that all were equally interested in them; that this was a broad-bottomed, equal, comprehensive, universal system of exact justice to every one, in opposition to partial and interested legislation in favor of a few; and immense credit was arrogated to themselves, by the authors of the bill, for the impartiality of their conduct in this heroic vindication of universal rights. This was the argument; and what is the fact? Why, a preliminary distribution of 12½ per centum to a few States, and then an equal distribution of the remainder, making, as these very champions of exact and universal justice themselves declared on this floor, a division of one-third of the whole amount to the seven new States! Thus the argument is falsified; and from under this falsification the truth peeps out, that this preliminary distribution is a bribe to the new States to induce them to take the bill—a bribe with their own money, to induce them to submit to the pillage and devastation of the high tariff States!

Mr. B. denounced the bill as unfair, partial, and unjust, in several particulars. First, in not admitting Georgia and Virginia, the two great donors of land to the Federal Government, to the preliminary division of 12½ per cent. on the sales made of the lands which they had bestowed upon the Federal Government. Secondly, in admitting Maine, Massachusetts, and Connecticut to come in for an equal share with other States, without accounting for the proceeds of the lands which they had retained, and were now selling for their own benefit—lands from which Maine and Massachusetts were now deriving at the rate of three hundred thousand dollars per annum; and the Western Reserve in Ohio, from which Connecticut created her school fund of near two millions of dollars. Thirdly, in putting all the States upon an equality with respect to internal improvement, when it was well known that a few favored States had received millions for that object, and others nothing; and when the plainest principles of justice required the deficiency to be made up to the neglected States before the general distribution should commence. This bill, so far from making up the deficiencies, in fact, goes on to increase the inequality, by giving the most to those which have had most; stuffing and cramming the States which have been gorged, and dribbling crumbs to those which have been famished.

Mr. B. condemned the rule of distribution—that of population—as false and unjust in its application to a system of internal improvement. The extent of the roads and canals, and not the number of people in the State, was the true rule of distribution in such a case. A large State would require long roads, although it might have but a thin population; a small State would require but a short road, be its population ever so great. Population he admitted to be the true rule of distribution where

money was to be divided for individual benefit, and each person was to have his own share for his own purposes; but in the case of roads and canals, the number of people was not only not the true rule, but was the reverse of the true one; for dense population implied a rich level country, where artificial roads were least wanted, and easiest made; thin population, a poor, mountainous country, where such roads are most wanted, and least means for making them. Again: roads and canals will last forever; they are not limited in their use to people of this day; they are for distant ages and remote posterity. If we looked to population at all, it should be to the future, and not to the present; it should be to the States as they would be when their limits were full. This would give the size of the State as the rule of distribution, and would substitute territorial extent for population—a rule which would work peculiarly right in this case, because it would give most to the States which had the best right to receive most, and the greatest need for it, namely, Virginia and Georgia, which gave five of the new States to the Federal Government, and to the new States themselves, which would be so cruelly exhausted to raise the money for the rest.

Mr. B. argued against the sufficiency of the twelve and a half per cent. allowed to the new States. It was an allowance for the damage they were about to suffer from the operation of the bill, and was a most inadequate and insufficient compensation even for the pecuniary damage they would suffer. Counting the pecuniary damage alone, it would require fifty per cent. to make it good. There was fifty per cent., in a moneyed point of view, between the bill and the amendment which was proposed to it; which amendment passed the Senate three years ago, and would pass Congress at this time without the least difficulty, had it not been for this bill. The bill keeps up the price of the land to one dollar and twenty-five cents; the amendment reduces the price to one dollar per acre to general purchasers, and fifty cents per acre to actual settlers. Now, observe the practical operation of the two plans. By the bill, a State will receive twelve and a half cents in the dollar upon the sales within her limits; by the bill she will save twenty-five cents per acre on all the sales to general purchasers, and seventy-five cents per acre on all the sales to actual settlers. Upon a sum of \$100,000 the State would receive \$12,500; under the amendment, she would save about \$50,000. Mr. B. was astonished that Senators from the new States, who voted for this bill, and without whose votes it could never pass, should make such bad bargains for their States. They were entitled to fifty per cent., and could easily get it if they held back for that amount. The high tariff party would take the other fifty with thanks, if they could get no more. They would take what they could get, if it was but five per cent.; for it was all clear gain to them. They

would take one per cent. before they would miss the chance. They wanted a finger in the pie; and that finger once in, they knew that they would quickly have the whole pie, dish and all, and the pot in which it was cooked. If these Senators really thought they could make no better bargain, yet there was one thing they could do; they could put off the bargain until the new States were fully represented under the new census, and when they could have a fair chance for their own money.

But Mr. B. utterly denied that the damage to the new States, from the operation of this bill, could be estimated in money. They were to receive injuries from it of a kind which no pecuniary damages could compensate. At the head of these mischiefs stood the acknowledged fact that the passage of the bill would put an end to all hope for any reduction in the price of the public land. Its bare introduction had entirely changed the temper of Congress, and converted many members, who were the advocates of reduced prices for years past, into decided enemies of that measure, and open advocates for the distribution system. So far from reduction, an increase of the price was certain and inevitable. The clause put into the bill to restrain future Congresses from raising the price of the lands, was an acknowledgment of the danger, and a proof of the futility of the remedy. It was adding insult to injury. It implied that the people of the new States were silly enough to believe that this Congress could bind future Congresses by its laws; that this Congress could tie the hands of its successors, and prevent them from altering the price of the public lands. This cunning clause was put in to delude the Western people, and blind them to their danger; but it will have the contrary effect. It will blind no man; on the contrary, it will open his eyes. He will see that there is such a violent disposition just broke out to raise the price of the lands, that Congress, for the first time in the history of the Government, found it necessary to stipulate against it; and he will know that the stipulation is void; that any subsequent Congress may repeal any part of the act it pleases, and substitute any new enactment that it thinks proper. That the price of the lands would be raised, was certain and inevitable. It might not be done by an act of Congress, but it would be done by an act of the new lords and masters of the West, by sending out agents to bid at every sale, to run up the price of every tract, to sue every farmer that took a stick or a stone from public land, to impound the cattle and hogs that eat the public grass and acorns, and to pursue the women and children who gather up the rotten wood. That all this would take place, Mr. B. said, could well be known from looking to the laws passed by Maine and Massachusetts for selling grass and rotten timber, and prosecuting trespassers on their public lands. He had once read these acts in the Senate, and had lately seen in the newspapers an instance of the rigorous manner

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Public Lands—Colonization Society.

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in which they were executed, in the prosecution of a man for two acorns! It could not be supposed that Massachusetts and Maine, when they became joint owners of the federal lands, would be more lenient to the remote settlers of the West than to their own citizens; and thus the price of land might be raised double as high as it was at present, without the formality of an act of Congress.

Mr. B. made an animated appeal to the Senate against the corrupting tendencies of the distributive system. He rapidly traced its ruinous effect upon the Roman elections, from the small beginning when candidates for the consulship would procure distribution of the public corn to the poorer class of voters, down to the time when the aspirants to the imperial diadem openly bid against each other for the support of the prætorian cohorts, and promised each soldier so many pounds of gold out of the public treasury for his vote. He warned the Senate not to commence such a system in this America. Its inevitable tendency was to run into the gulf of corruption, and to put up the highest office of the republic at auction sale. If the voters once condescended to receive distributions, whether from a public or private fund, the next step would inevitably be to look out for the hand that could, and would, distribute most. Private fortunes, in this country, could not furnish the means of lavishing benefactions on millions of voters; the public funds could alone do it; and he called upon all considerate men to say where the practice would stop, if it once began?

The bill being reported as amended, and the amendments concurred in, the bill was ordered to be engrossed, and read a third time.

FRIDAY, JANUARY 25.

Powers of the Government—Mr. John M. Clayton's Resolution.

Mr. CLAYTON submitted the following resolution, which was read, laid on the table, and ordered to be printed:

Resolved, That the power to annul the several acts of Congress imposing duties on imports, or any other law of the United States, when assumed by a single State, is "incompatible with the existence of the Union, contradicted expressly by the letter of the constitution, unauthorized by its spirit, inconsistent with every principle on which it was founded, and destructive of the great object for which it was formed;" that the people of these United States are, for the purposes enumerated in their constitution, one people and a single nation, having delegated full power to their common agents to preserve and defend their national interests for the purpose of attaining the great end of all government—the safety and happiness of the governed; that while the constitution does provide for the interest and safety of all the States, it does not secure all the rights of independent sovereignty to any; that the allegiance of the people is rightfully due, as it has been freely given, to the General Government, to the extent of all the sovereign power ex-

pressedly ceded to that Government by the constitution; that the Supreme Court of the United States is the proper and only tribunal in the last resort for the decision of all cases in law and equity arising under the constitution, the laws of the United States, and treaties made under their authority; that resistance to the laws, founded on the inherent and inalienable right of all men to resist oppression, is in its nature revolutionary and extra-constitutional; and that, entertaining these views, the Senate of the United States, while willing to concede every thing to an honest difference of opinion which can be yielded consistently with the honor and interest of the nation, will not fail, in the faithful discharge of its most solemn duty, to support the Executive in the just administration of the Government, and clothe it with all constitutional power necessary to the faithful execution of the laws and the preservation of the Union.

Public Lands—Colonization.

The bill appropriating, for a limited time, the proceeds of the sales of the public lands, &c., was read a third time.

Mr. WILKINS stated, that last evening, when some of the amendments proposed in the public lands bill were under consideration, several of the Senators were absent. He was willing that in reference to one of these questions, a fuller expression of the sense of the Senate should be taken; but he was desirous that the motion he was about to make should not be received as indicating any change of opinion on his part. He then moved to reconsider the vote of last evening, by which the Senate refused to strike out the words "colonization of free persons of color."

Some conversation took place on the point of order, and then on the propriety of the motion; and the question being finally taken, the motion was decided by—yeas 18, nays 27.

Mr. FORSTH moved to recommit the bill, with instructions to strike out the words "colonization of free people of color." In support of his motion, he said many of the managers of the Colonization Society are well known and distinguished. At their annual meeting there had been an evident wish manifested to turn the attention of the public to the society, and enlist the Government in its behalf. Two of our most distinguished citizens, President Madison and Chief Justice Marshall, had expressed their views in relation to the society. The committee had suggested an appropriation of the public lands to the objects of the society; but he also had doubted the power of Congress to make it, and had proposed that the constitution should be so altered as to confer the power. Mr. Marshall was both in favor of the appropriations, and deemed it now constitutional. But Mr. F. thought there was a general impression on the minds of Congress that the Government does not possess the power. He said the object of the bill was to do indirectly what Congress felt it had not the power to do directly. If the bill pass, what will follow? The Colonization Society has no official or political

weight or importance; and what will be the consequences of their sending out fifteen hundred or two thousand colonists to the coast of Africa? Every one may do as he pleases with regard to it in his individual capacity, but I desire that it may not be connected with the Government.

The Senator from Kentucky thinks it will perform wonders. The original object was to get rid of the free people of color; but that can be done without the aid of the Government. Now, sir, there is another project, and a very great one; one that is to command the approval of all—the civilization of Africa. It is thought that this can best be done by means of colonies. But, look, sir, at Liberia. Here I have a map of the territorial property, of the sovereign jurisdiction of the Colonization Society of the city of Washington, by the Rev. J. Ashmun, [Here he read some remarks from the map, on the territorial jurisdiction of the society.] Sir, this society goes beyond the European notion of acquiring jurisdiction. European sovereignties obtained it by discovery and purchase; the society by purchase alone; and on this sole ground of sovereignty they were actually exerting their authority over twenty thousand people, and expect soon to exert it over one hundred and fifty thousand—the inhabitants of the territory which they hold, two hundred and eighty miles by thirty, over which their jurisdiction extends. Wars have been waged, and blood has been shed. In the early time of the colony it was attacked by the natives, and three hundred were killed. The agent of the society has waged war; tribes and towns have been conquered; and the spoils divided among the victors. Sir, in most cases of this kind, a claim would have been made on this Government for damages. If the colony were now attacked and destroyed by the resentment which it has provoked, no constitutional power of this Government could hinder its destruction. But if this bill pass, the Government will be involved in its defence. Europe will not allow a colony in Africa thus to grow up and extend, unmolested, while under so feeble prohibition. They will wrest it from the society, unless Government interposes. This bill is a commitment of the Government to protect the colony against all the world. The powers of Government were granted for no such purpose. Mr. F. concluded by saying, that he would dwell no longer on the subject, and that he would not believe that it was the wish of Government to do indirectly what it could not do directly.

Mr. TYLER remarked that there were two other propositions quite as obnoxious to the constitution as the one which had been noticed. Conferring on States the power and the means of internal improvement, and an appropriation, through States, to education, he considered as equally unconstitutional. If one was stricken out, he was in favor of erasing the whole. He preferred that discretionary power of appropriation should remain in the States. He

moved to strike out the words designating the three specific objects of appropriation.

Mr. FORSYTH withdrew his motion.

Mr. CLAY asked a division of the question, so as first to consider the general question of recommitting at all.

On the question of recommitment, there were yeas 20, nays 28.

On the question of postponement—yeas 21, nays 24.

The bill was then passed by the following vote:

YEAS.—Messrs. Bell, Chambers, Clay, Clayton, Dallas, Dickerson, Dudley, Ewing, Foot, Frelinghuysen, Hendricks, Holmes, Johnston, Knight, Poin-dexter, Prentiss, Robbins, Ruggles, Seymour, Silsbee, Sprague, Tomlinson, Waggaman, Wilkins—24.

NAYS.—Messrs. Benton, Black, Brown, Buckner, Calhoun, Forsyth, Grundy, Hill, Kane, King, Mangum, Miller, Moore, Rives, Robinson, Smith, Tipton, Tyler, White, Wright—20.

MONDAY, January 28.

Revenue Collection Bill—Nullification.

The Senate then took up the following bill, reported by Mr. WILKINS, from the Committee on the Judiciary, on the 21st instant.

[The bill is omitted, its provisions being sufficiently stated in the debate.]

Mr. WILKINS rose in support of the bill. The position, said he, in which you, Mr. President, have placed me in relation to this body, imposes on me the duty of introducing the present bill to the Senate, and of explaining its provisions. In my mode of discharging this duty I do not consider myself as the representative of other gentlemen on the committee; those gentlemen possess a competence, far beyond mine, to explain and defend the power of the General Government to carry into effect its constitutional laws. The bill is founded upon a Message from the President, communicated on the 16th instant, and proposes to sustain the constitutionality of the doctrines laid down in that admired state paper. In the outset of the discussion, it is admitted that the bill points to an afflicting state of things existing in a Southern State of the Union; it is not to be disguised that it points to the State of South Carolina. It is not in the contemplation of the committee who reported this bill, to make it assume, in any way, an invidious character. When the gentleman from South Carolina threw out the suggestion that the bill was invidious, he certainly did not intend to impute to the committee a design to give it such a character. So far from being invidious, the bill was made general and sweeping, in its terms and application, for the reason that this course was thought to be more delicate in regard to the State concerned. The provisions of the bill were made general, for the purpose of enforcing everywhere the collection laws of the Union.

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The bill presents three very important and momentous considerations: Is there any thing in the circumstances of the country calling for legislation on the subject of the revenue laws? Is the due administration of those laws threatened with impediments? and is this bill suited to such an emergency? He proposed to consider those points, but in a desultory manner. He never shrunk from any moral or political responsibility, but he had no disposition (to use the words of the Senator from North Carolina) to "drum on public sensibility." Neither he nor the State which he represented had any influence in bringing up these questions, but he was prepared to meet the crisis by his vote.

It is time (continued Mr. W.) that the principles on which the Union depends were discussed. It is time that Congress expressed an opinion upon them. It is time that the people should bring their judgment to bear on this subject, and settle it forever. The authority of Congress and of the people must settle this question one day or other. There were many enlightened men in the country, men whose integrity and patriotism nobody doubts, who had arrived at opinions in this matter very different from his own. The Senator from South Carolina knows (said Mr. W.) the respect in which I hold him; but I am unwilling to take his judgment on this question as the guide of mine; and I will not agree that the Union depends on the principles which he has advanced. He has offered a document as a plea in bar; if it be established, then a bar is interposed between the powers of the Government and the acts of South Carolina.

The bill is of great importance, not on account of its particular provisions, but of their application to a rapidly approaching crisis, which they were intended to meet. That crisis was in the control of this body, not of any branch of the Government. He would ask the Senator from Mississippi (Mr. POINDEXTER) what authority he had to say that the passage of any bill reducing the tariff would avert the enforcement of the ordinance of South Carolina? He was unwilling to consider that Senator as the representative of the unlimited authority and sovereignty claimed by the State of South Carolina. He would now present to the Senate a view of the position in which South Carolina had placed herself, in order to justify the committee in reporting the bill under consideration. It was not, sir, for the purpose of establishing a military despotism, nor of creating an armed dictator, nor of sending into South Carolina military bands to "cut the throats of women and children," that the committee framed the bill. If any thing can ever establish a military despotism in this country, it is the anarchy and confusion which the principles contended for by the Senator from South Carolina will produce. If we keep together, not "ten years," nor tens of thousands of years, will ever bring the country under the dominion of military despotism. But adopt the princi-

ples of South Carolina—break the Union into fragments—some chieftain may bring the fragments together, but it will be under a military despotism. He would not say that South Carolina contemplated this result, but he did say that her principles would lead to it. South Carolina, not being able longer to bear the burden of an oppressive law, had determined on resistance.

The excitement raised in the State gave to the party a majority in the Legislature of the State, and a convention was called, under the provision of the State constitution authorizing its amendment. The convention met, and passed what is called the ordinance, establishing new and fundamental principles. Without repeating it, he would call the attention of the Senate to some few of its provisions. It overthrew the whole revenue system. It was not limited to the acts of 1828 or 1832, but ended with a solemn declaration, that, in that State, no taxes should be collected. The addresses of the convention to the people of the United States and of the State of South Carolina used a tone and language not to be misunderstood. They tell you it is necessary for some one State to bring the question to issue—that Carolina will do it—that Carolina had thrown herself into the breach, and would stand foremost in resistance to the laws of the Union; and they solemnly call upon the citizens of the State to stand by the principles of the ordinance, for it is determined that no taxes shall be collected in that State. The ordinance gives the Legislature the power to carry into execution this determination. It contains within itself no seeds of dissolution; it is unlimited as to time; contains no restrictions as to application; provides no means for its amendment, modification, or repeal. In their private, individual capacity, some members of the convention held out the idea which had been advanced by some members of this House, that if the tariff law was made less oppressive, the ordinance would not be enforced.

[Mr. POINDEXTER here remarked, that he said that any new tariff law, even if more oppressive than the law of 1832, were passed, the ordinance would not apply to it.]

If the terms of the ordinance are considered, (continued Mr. W.,) there is no possible mode of arresting it; so sure as time rolls on, and four days pass over our heads, the ordinance, and the laws emanating from it, will lead to the employment of physical force, by the citizens of South Carolina, against the enforcement of the revenue laws. Although many of the most influential citizens of Carolina protested against the idea that any but moral force would be resorted to, yet the excitement and determined spirit of the people would, in his opinion, lead speedily to the employment of physical force. He did not doubt that the Senator from South Carolina abhorred the idea of force; no doubt his excellent heart would bleed at the scene which it would produce;

but he would refer to a passage in the ordinance to prove that it was the intention of its framers to resort to force. Mr. W. here read the third paragraph of the ordinance.

"And it is further ordained, that it shall not be lawful for any of the constituted authorities, whether of this State or of the United States, to enforce the payment of duties imposed by the said acts within the limits of this State; but it shall be the duty of the Legislature to adopt such measures and pass such acts as may be necessary to give full effect to this ordinance, and to prevent the enforcement and arrest the operation of the said acts and parts of acts of the Congress of the United States within the limits of this State, from and after the 1st of February next; and the duty of all other constituted authorities, and of persons residing or being within the limits of this State, and they are hereby required and enjoined, to obey and give effect to this ordinance, and such acts and measures of the Legislature as may be passed or adopted in obedience thereto."*

* The following is the entire ordinance:

Whereas the Congress of the United States, by various acts, purporting to be acts laying duties and imposts on foreign imports, but in reality intended for the protection of domestic manufactures, and the giving of bounties to classes and individuals engaged in particular employments, at the expense and to the injury and oppression of other classes and individuals, and by wholly exempting from taxation certain foreign commodities, such as are not produced or manufactured in the United States, to afford a pretext for imposing higher and excessive duties on articles similar to those intended to be protected, hath exceeded its just powers under the constitution, which confers on it no authority to afford such protection, and hath violated the true meaning and intent of the constitution, which provides for equality in imposing the burdens of taxation upon the several States and portions of the confederacy: And whereas the said Congress, exceeding its just power to impose taxes and collect revenue for the purpose of effecting and accomplishing the specific objects and purposes which the Constitution of the United States authorizes it to effect and accomplish, hath raised and collected unnecessary revenue for objects unauthorized by the constitution:

We, therefore, the people of the State of South Carolina, in convention assembled, do declare and ordain, and it is hereby declared and ordained, that the several acts and parts of acts of the Congress of the United States, purporting to be laws for the imposing of duties and imposts on the importation of foreign commodities, and now having actual operation and effect within the United States, and, more especially, an act entitled "An act in alteration of the several acts imposing duties on imports," approved on the nineteenth day of May, one thousand eight hundred and twenty-eight, and also an act entitled "An act to alter and amend the several acts imposing duties on imports," approved on the fourteenth day of July, one thousand eight hundred and thirty-two, are unauthorized by the Constitution of the United States, and violate the true meaning and intent thereof, and are null, void, and no law, nor binding upon this State, its officers or citizens; and all promises, contracts, and obligations, made or entered into, or to be made or entered into, with purpose to secure the duties imposed by the said acts, and all judicial proceedings which shall be hereafter had in affirmance thereof, are and shall be held utterly null and void.

And it is further ordained, that it shall not be lawful for any of the constituted authorities, whether of this State or of the United States, to enforce the payment of duties imposed by the said acts within the limits of this State; but it shall be the duty of the Legislature to adopt such measures and pass such acts as may be necessary to give full effect to this ordinance, and to prevent the enforcement and arrest the operation of the said acts and parts of acts of the Congress of the United States within the limits of this State, from and after the 1st day of February next, and the duty of all other constituted authorities, and of all persons residing or being within the limits of this State, and they are hereby required and enjoined to obey and give effect to this ordinance, and such acts and measures of the Legislature as may be passed or adopted in obedience thereto.

Does the shadow follow the sun? Even so surely will force follow the attempt to disobey

And it is further ordained, that in no case of law or equity, decided in the courts of this State, wherein shall be drawn in question the authority of this ordinance, or the validity of such act or acts of the Legislature as may be passed for the purpose of giving effect thereto, or the validity of the aforesaid acts of Congress, imposing duties, shall any appeal be taken or allowed to the Supreme Court of the United States, nor shall any copy of the record be permitted or allowed for that purpose; and if any such appeal shall be attempted to be taken, the courts of this State shall proceed to execute and enforce their judgments, according to the laws and usages of the State, without reference to such attempted appeal, and the person or persons attempting to take such appeal may be dealt with as for a contempt of the court.

And it is further ordained, that all persons now holding any office of honor, profit, or trust, civil or military, under this State, (members of the Legislature excepted,) shall, within such time, and in such manner as the Legislature shall prescribe, take an oath well and truly to obey, execute, and enforce this ordinance, and such act or acts of the Legislature as may be passed in pursuance thereof, according to the true intent and meaning of the same; and on the neglect or omission of any such person or persons so to do, his or their office or offices shall be forthwith vacated, and shall be filled up as if such person or persons were dead or had resigned; and no person hereafter elected to any office of honor, profit, or trust, civil or military (members of the Legislature excepted,) shall, until the Legislature shall otherwise provide and direct, enter on the execution of his office, or be in any respect competent to discharge the duties thereof, until he shall, in like manner, have taken a similar oath; and no juror shall be empanelled in any of the courts of this State, in any cause in which shall be in question this ordinance, or any act of the Legislature passed in pursuance thereof, unless he shall first, in addition to the usual oath, have taken an oath that he will well and truly obey, execute, and enforce this ordinance, and such act or acts of the Legislature as may be passed to carry the same into operation and effect, according to the true intent and meaning thereof.

And we, the people of South Carolina, to the end that it may be fully understood by the Government of the United States, and the people of the co-States, that we are determined to maintain this our ordinance, and declaration, at every hazard, do further declare that we will not submit to the application of force, on the part of the Federal Government, to reduce this State to obedience, but that we will consider the passage, by Congress, of any act authorizing the employment of a military or naval force against the State of South Carolina, her constituted authorities or citizens; or any act abolishing or closing the ports of this State, or any of them, or otherwise obstructing the free ingress and egress of vessels to and from the said ports, or any other act on the part of the Federal Government, to coerce the State, shut up her ports, destroy or harass her commerce, or to enforce the acts hereby declared to be null and void, otherwise than through the civil tribunals of the country, as inconsistent with the longer continuance of South Carolina in the Union: and that the people of this State will thenceforth hold themselves absolved from all further obligation to maintain or preserve their political connection with the people of the other States, and will forthwith proceed to organize a separate Government, and do all other acts and things which sovereign and independent States may of right do.

Done in convention at Columbia, the twenty-fourth day of November, in the year of our Lord one thousand eight hundred and thirty-two, and in the fifty-seventh year of the Declaration of the Independence of the United States of America.

JAMES HAMILTON, Jr.,

President of Convention, and Delegate from St. Peters.

James Hamilton, sen., Rich'd Bohun Baker, sen., Samuel Warren, Nathaniel Hayward, Rob. Lang, J. B. Earle, L. M. Ayer, Benjamin Adams, James Adams, James Anderson, Robert Anderson, William Arnold, John Ball, Barnard E. Bee, Thomas W. Boone, E. W. Barnwell, Isaac Bradwell, Jr., Thomas G. Blewett, P. M. Butler, John G. Brown, J. G. Brown, John Baskett, A. Bart, Francis Bart, Jr., Bailey Barton, A. Bowie, James A. Black, A. H. Bell, Philip Cohen, Samuel Cordes, Thos. H. Colcock, C. J. Colcock, Charles G. Capers, Wm. C. Clifton, West Coughman, John Counts, Benjamin Chambers, J. A. Campbell, Wm. Dubose, John H. Dawson, John Douglas, George Douglas, F. H. Elmore, Wm. Evans, Edmund J. Felder, A. Fuller, Thos. L. Gourdin,

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the laws of South Carolina. In the last paragraph of the ordinance is this passage:

"Determined to support this ordinance at every hazard,"—and this declaration is made by a courageous and chivalrous people—"we do further declare that we will not submit to the application of force, on the part of the Federal Government, to reduce this State to obedience."

This attempt, said Mr. W., is not made by this bill, or by any one.

"But that we will consider the passage, by Congress, of any act authorizing the employment of a military or naval force against the State of South Carolina, her constituted authorities or citizens, or any act abolishing or closing the ports of this State, or any of them, or otherwise obstructing the free ingress and egress of vessels to and from the said ports, or any other act on the part of the Federal Government to coerce the State, shut up her ports, destroy or harass her commerce, or to enforce the acts hereby declared to be null and void, otherwise than through the civil tribunals of the country, as inconsistent with the longer continuance of South Carolina in the Union."

Force must inevitably be used in case any attempt is made by the Federal Government to enforce the acts which have been declared null and void. The ordinance clearly establishes nullification as the law of the land.

[Mr. MILLER: Will the Senator read a little further?]

Mr. W. finished the paragraph, as follows:

"And that the people of this State will thenceforth hold themselves absolved from all further obligation to maintain or preserve their political connection with the people of the other States, and will forthwith proceed to organize a separate Government, and do all other acts and things which sovereign and independent States may of right do."

They stop with nullification; but one step further on the part of the Government brings down secession and revolution.

Mr. CALHOUN.—It is not intended to use any force, except against force. We shall not stop the proceedings of the United States courts,

but maintain the authority of our own judiciary.

Mr. WILKINS.—How can the ordinance refer to any laws of the United States, when they are excluded from any operation within the limits of the State? Why do the laws and ordinance of South Carolina shut out the United States courts from appellate jurisdiction? Why do they shut the doors of the State courts against any inquisition from the United States courts? They intend that there shall be no jurisdiction over this subject, except through their own courts. They cut off the federal judiciary from all authority in that State, and bring back the state of things which existed prior to the formation of the federal constitution.

Here nullification is disclaimed, on one hand, unless we abolish our revenue system. We consenting to do this, they remain quiet. But if we go a hair's breadth towards enforcing that system, they present secession. We have secession on one hand, and nullification on the other. The Senator from South Carolina admitted the other day that no such thing as constitutional secession could exist. Then civil war, disunion, and anarchy must accompany secession. No one denies the right of revolution. That is a natural, indefeasible, inherent right—a right which we have exercised and held out, by our example, to the civilized world. Who denies it? Then we have revolution by force, not constitutional secession. That violence must come by secession is certain. Another law passed by the Legislature of South Carolina, is entitled "A bill to provide for the safety of the people of South Carolina." It advises them to put on their armor. It puts them in military array; and for what purpose but for the use of force? The provisions of these laws are infinitely worse than those of the feudal system, so far as they apply to the citizens of Carolina. But with its operations on their own citizens, he had nothing to do. Resistance was just as inevitable as the arrival of the day on the calendar. In addition to these documents, what did rumor say—rumor, which often falsifies, but sometimes utters truth. If we judge by newspaper and other reports, more men were now ready to take up arms in Carolina than there were during the revolutionary struggle. The whole State was at this moment in arms, and its citizens are ready to be embattled the moment any attempt was made to enforce the revenue laws. The city of Charleston wore the appearance of a military depot. As a further proof of the necessity of this bill, he would read a printed paper, which might pass for what it was worth.

Mr. CALHOUN. What paper is it? Has it a signature?

Mr. WILKINS. It is a circular, but not signed. Mr. W. then read the paper as follows:

(Circular.)

"CHARLESTON, January, 1833.

"SIR:—You will, on receiving this letter, immediately take the proper measures for the purpose of

Peter G. Gourdin, T. J. Goodwyn, Peter Gaillard, Jr., John K. Griffin, George W. Glenn, Alex. L. Gregg, Robert Y. Hayne, William Harper, Thomas Harrison, John Hatton, Thomas Harless, Abm. Huguenin, Jacob Bond M'On, John S. Jeter, Job Johnston, John S. James, M. Jacobs, J. A. Keith, John Key, Jacob H. King, Stephen Lacoste, James Lynch, Francis Y. Legare, Alex. J. Lawton, John Lipecomb, John Logan, J. Littlejohn, A. Lancaster, John Magrath, Benj. A. Markley, John S. Maner, Wm. M. Murray, E. G. Mills, John B. McCall, D. H. Means, R. G. May, George McDuffie, Jas. Moore, John L. Miller, Stephen D. Miller, John B. Miller, E. P. McCord, John L. Nowell, Jennings O'Bannon, J. Walter Phillips, Charles C. Parker, Wm. Forcher, Edward G. Palmer, Charles C. Pinckney, Wm. C. Pinckney, Thomas Pinckney, Francis D. Quash, John Rivers, Donald Rowe, Benjamin Rogers, Thomas Bay, James G. Spann, James Spann, S. L. Simons, Peter J. Shand, James Mongin Smith, G. H. Smith, Wm. Smith, Stephen Smith, Wm. Stringfellow, Edwin J. Scott, F. W. Symmes, J. S. Sims, T. D. Singleton, Joseph L. Stevens, T. E. Scriven, Rob. J. Turnbull, Ellaha Tyler, Philip Tidman, Isaac B. Ulmer, Peter Vaught, Edm. Vanderhorst, John L. Wilson, Isham Walker, Wm. Williams, Thos. B. Woodward, Sterling C. Williamson, F. H. Wardlaw, Abner Whatley, J. T. Whitefield, Samuel L. Watt, Nicholas Ware, Wm. Waties, Arnold Young.

Attest:

ISAAC W. HAYNE,
Clerk of the Convention.

ascertaining at what points depots of provisions, say of corn, fodder, and bacon, can be established on the main roads leading through your district, at suitable stations, say from thirty to forty miles apart. Looking to the event of a possible call for troops of every description, especially of mounted men, in a sudden emergency, you will ascertain the routes by which they could most conveniently pass through your respective districts, and the proper points at which they may put up after the usual day's march. Having settled this, the next point will be to inquire whether there are any persons at or near those points, who would undertake, on terms to be stipulated, to furnish corn, fodder, and meat, in what quantities, and at what notice? It is desirable that this arrangement should be effected, so as to enable us to command an adequate supply in the event of its being wanted, without actually making purchases at present. If this be impracticable, however, you must then see on what terms purchases can be effected, where, and on what manner the articles can be deposited and taken care of? I will here give you a general outline of my scheme. I will suppose three great routes to be marked out from the mountains towards the sea; one leading from Laurenceville, through Newberry, to Columbia; another from Yorkville and Union, by Winesboro' and Chesterville, to Columbia; and the third from Pendleton, through Abbeville and Edgefield, Burnwell, and Colleton, to Charleston. Along these routes depots would have to be established at intervals of thirty or forty miles, besides separate depots at Camden and some other places. From Columbia these stations would be necessary along the State road to Charleston. But one other route would then, perhaps, be necessary to be provided for, beginning at Darlington Court-house, and ending at Georgetown; one station to be at Kingstree, and another at Lynche's Creek. From all other places some one of these stations might be struck. I present this imperfect outline merely to give you some idea of my general scheme. Your particular attention will, of course, be directed to your own district; and, if you find it necessary, you may call in my aids from the adjoining districts, and such staff officers as you may think proper, and consult with them as to the best method of connecting the districts by some general plan, and favor me with the result.

"Another object to which I would call your early and particular attention, is the state of the arms, public and private, in the hands of the men. Great numbers have been issued from time to time, especially within a few years past. I wish to know how many of them may be relied on in the event of actual service. For this purpose, it must be ascertained, from actual inspection or otherwise, how many men in each company have muskets, rifles or other arms fit for use; and any unfit for use must be repaired. The latter must be collected together and repaired, if it can be effected in your neighborhood; and, if not, they must be boxed up and sent to Charleston; when, after being repaired at the public expense, they will be returned to the companies to which they may belong. To execute the arduous, responsible, and difficult duties imposed by this order, you are authorized to call to your assistance all the officers of the staff within your district; and, if further assistance is wanted, additional officers will be appointed. The travelling expenses of yourself, and such officers as you may employ in this business, will be paid. You will issue the nec-

essary orders in my name, countersigned by yourself as aide-de-camp, to all officers within your district, urging them to do whatever you may find necessary to the prompt and effectual execution of this order. You will, when convenient, call upon the brigadier or major-generals, within your district, for their co-operation and assistance, and, generally, adopt all proper measures for the accomplishment of the important objects which I have in view, which may be stated in a few words to be to secure the means of subsistence, so as to be enabled to bring troops to any given point in the shortest possible time—to ascertain the state of the arms now in the hands of the men—and to have those unfit for use put in complete order. If any other means occur to you of accomplishing, in the promptest manner, these vitally important objects, you will be so good as to suggest them.

"I am, very respectfully, &c.

"N. B. I annex the form of three orders, which you may find it necessary to extend, to enable you to accomplish the objects we have in view. You may modify them as you think proper, and then have copies served on each of the officers, who may be required to execute them within your district. They are not to be published in the papers. Copies of all such orders as you may issue must be sent to me."

Adverting to another circumstance, as tending to show the excitement prevailing in South Carolina against the General Government, Mr. W. said, that in every part of the State, the blue cockade with the Palmetto button, was generally worn. That bit of ribbon, and the button, were no trifling sign of the military spirit prevalent among the people.

It seemed to him, indeed, from all these facts, known to us, officially and by rumor, that it was impossible to avoid a collision with South Carolina, while her ordinance remained in force; and that those gentlemen who represented that the passage of any bill by us would defeat the ordinance, and prevent a collision, had mistaken the sense of the ordinance, and the intention of the people of South Carolina.

[Mr. MILLER here interposed, and said he had not expressed the opinion that nullification would be abandoned upon the passage of a bill of any character in reference to the tariff. If Congress passed a bill altering the tariff acts of 1828 and 1832, he was of opinion that such act would set aside the ordinance, which was specific in its application to the tariff acts of 1828 and 1832. Even if a bill more oppressive than the existing acts should pass, the ordinance now existing would thereby be defeated, and South Carolina would be under the necessity of assembling another convention, and passing another ordinance.]

Mr. WILKINS found, he said, that he was not far from right. What prospect, then, was there of an abandonment, by South Carolina, of her present position? She offers us but two modes of adjusting the matter in dispute. The first is by the total abandonment of the protective system; by the admission of the whole list of protected articles free of all duty, and raising the

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whole revenue derived from duties on imports exclusively from the unprotected articles. The consequence of the adoption of this policy, would be most fatal and disastrous to the industry of the Northern States. It would put the laboring classes of Pennsylvania on a footing with the paupers of the old world. It would prostrate at once and forever the policy which Pennsylvania had long cherished, which South Carolina had united with her in establishing and maintaining, and under which she was prosperous and happy. The admirable speech made by the Senator from South Carolina, in 1816, in favor of the protective policy, was engraved on the hearts of the people of Pennsylvania. In the dwellings of the farmer, mechanic, and the manufacturer, it hung upon the wall, by the side of Washington's Farewell Address. He well remembered that speech, for it had a powerful influence on his own mind in relation to the policy of the protective system.

[Mr. CALHOUN here said, I thank the gentleman for alluding to that speech. It has been much and very often misrepresented, and I shall take an early opportunity to explain it.]

Mr. WILKINS—I shall be happy to witness the exhibition of the Senator's ingenuity in explaining the speech in such a manner as to make it accord with his present views. I should not have alluded to it, had not the Senator remarked upon the bill from our committee as a bill "of abominations."

Mr. CALHOUN—It requires no apology.

Mr. WILKINS proceeded to state the considerations which rendered a compliance with the terms proposed by South Carolina improbable, if not impossible. For his own part, he was free to say that he could not bring his mind to assent to so destructive a measure. He spoke only for himself. What were the views of others of this body on this subject he did not know, for he was not in the habit of making inquiries as to the opinions of others on such topics. Much as he loved the Union—much as he deprecated any collision between the State and Federal Governments—much as he was disposed to respect the opinions and wishes of a sister State—he would not himself assent to a total destruction even of incidental protection to our domestic industry. He would, however, go far, very far, even to the sacrifice of much of that protection which we claim as just and necessary; but to the point proposed by South Carolina as her *ultimatum*, he could not go.

He did not believe that there was any probability of the assent, on the part of Congress, to the first proposition of South Carolina. There was but one other proposition made by South Carolina for the adjustment of this controversy, and that was even less hopeful than the former. It was by the call of a general convention of the States, and the submission to them of an ultimate arbitrament on the disputed powers. Mr. W. was of the opinion that the division of the State representation assembled in conven-

tion on the matters in controversy would not differ from the judgment of the representatives assembled in Congress. He did not think it at all probable that the convention would either alter the constitution in respect to the powers of the Government over the subject of revenue, or that the protective laws would be pronounced by them unconstitutional, and null and void. But it was not at all probable that two-thirds of Congress and three-fourths of the States would agree to the call of a general convention. The people were averse to any change in the constitution, and were of opinion that it could not be amended for the better. For his own part, it was his earnest hope, and confident belief, that no change would ever be made in the terms of our admirable compact.

Here Mr. W. yielded to a motion for adjournment, and the Senate adjourned.

TUESDAY, January 31.

The Collection Bill.

The subject again coming up—

Mr. WILKINS resumed his remarks on it. He commenced by stating that, on a proper occasion, he should move one or two amendments to the bill, one of which would be to limit some of its provisions to the end of the next session of Congress: the provisions which it contained for amending the judicial system, he presumed, there would be no objection to leaving, as they are in the bill, unlimited.

When the Senate adjourned yesterday, (Mr. W. continued,) I was speaking of the tariff system—of this system for the protection of American industry, which a vast portion of the American people believe to be intimately connected with the prosperity of the country. As a justification of the adherence, as far as practicable, to this system, he had had reference to the conduct of gentlemen from the South in regard to it. At one period, he now added, Maryland had been considered a Southern State, as she was still a slaveholding State: from the chief city of that State, directly after the meeting of Congress, under the constitution of 1787, a memorial was transmitted to Congress, reciting the weakness and inefficiency of the old confederacy, and its inadequacy to protect the manufacturing interests, and rejoicing that we had now a Government possessing all the necessary power to protect domestic industry, and praying the interposition of Congress for that purpose. Another incident he mentioned, which, he said, many members would recollect, of a member of Congress from South Carolina having, in the year 1809, offered a resolution proposing that all the members of Congress should appear, at the commencement of the next ensuing session, clad entirely in clothing of American manufacture. He had already adverted to the agency of the South in passing the tariff law of 1816, and now, said he, let me make a personal reference, in connection with it, to another gentleman from South Carolina,

now a member of this body, (Mr. MILLER;) which reference I make with all possible respect for that gentleman. When the bill of 1816 was under discussion, that gentleman, then a member of the other House, made a motion, deeply interesting to Pennsylvania, and for which I, as one of her sons, feel grateful to him, to raise the duties on hammered bar iron (which the bill proposed to raise from nine to sixteen dollars per ton) to twenty dollars per ton. Thus amended, the bill passed the House, but the duty was reduced in the Senate to sixteen. On the final passage of the bill, including that and other duties, three members only from South Carolina were present, and they all voted for the bill. Strange revolution of opinion! It is now contended by the same gentleman that a duty of eighteen dollars upon the same article, (two dollars below her own proposition,) as fixed by the tariff of 1832, is so onerous, oppressive, and tyrannical, that the whole country is to be involved in a civil war, if not only that, but every other protective duty be not abolished!

Mr. W. said he had also spoken, yesterday, in justification of the strongest provisions of this bill, of the talked-of resistance to the laws in South Carolina. He had understood the Senator from South Carolina, (Mr. CALHOUN,) the other day, as acknowledging that there was military array in South Carolina, but contending that it followed and did not precede the array of force by the United States.

Mr. CALHOUN said he had admitted that there was military preparation, not array.

Mr. WILKINS said, if we examine the measures taken by the Administration in reference to the present crisis, it would be found that they were not at all of that military character to justify the measures of South Carolina which it was alleged had followed them.

Mr. CALHOUN said that South Carolina was undoubtedly preparing to resist force by force. But, let the United States withdraw its forces from her borders, and lay this bill upon the table, and her preparations would cease.

Mr. WILKINS resumed. That is, sir, if we do not oppose any of her movements, all will be right. If we fold our arms, and exhibit a perfect indifference whether the laws of the Union are obeyed or not, all will be quiet! This, I admit, would be an admirable mode to avoid collision and prevent disturbance; but is it one that we can submit to? The moment we fail to counteract the nullification proceedings of South Carolina, the Union is dissolved; for, in this Government of laws, union is obedience, and obedience is union. The moment South Carolina—

Mr. CALHOUN.—Who relies upon force in this controversy? I have insisted upon it that South Carolina relied altogether on civil process, and that, if the General Government resorts to force, then only will South Carolina rely upon force. If force be introduced by either party, upon that party will fall the responsibility.

Mr. WILKINS.—The General Government will not appeal, in the first instance, to force. It will appeal to the patriotism of South Carolina—to that magnanimity of which she boasts so much.

Mr. CALHOUN.—I am sorry that South Carolina cannot appeal to the sense of justice of the General Government. [Order! order! from one or two members.]

Mr. WILKINS.—The Government will appeal to that political sense which exhorts obedience to the laws of the country, as the first duty of the citizen. It will appeal to the moral force in the community. If that appeal be in vain, it will appeal to the judiciary. If the mild arm of the judiciary be not sufficient to execute the laws, it will call out the civil force to sustain the laws. If that be insufficient, God save and protect us from the last resort! But if the evil does come upon the country, who is responsible for it? If force be brought in to the aid of law, who, I ask of gentlemen, is responsible for it to the people of the United States? That is the question. Talk of it as you please, mystify matters as you will, theorize as you may, pile up abstract propositions to any extent, at last the question resolves itself into one of obedience or resistance of the laws—in other words, of union or disunion. Wherein (said Mr. W.) consists our liberty? What is the foundation of our political institutions which we boast of, which we hold up to the world for imitation, and for the enjoyment of which the votary of freedom pants in every country of the globe—what is it? It is that of a Government where the people make the laws, and where the people obey the laws which they themselves have made. That is our system of Government, and by a large majority of the people it is respected accordingly. Why, sir, (said Mr. W.,) if you were to carry into effect the ultra doctrine of South Carolina at this moment, repeal your whole protective system, shut up our factories, stop our wheels, extinguish our fires, &c.—nay, ruin us by your legislation—yet would the people of Pennsylvania obey the laws, and abide your decision. But then they would appeal to the people; they would endeavor to bring public opinion to act upon Congress, and bear them back into the right course. They would appeal to moral influence, and to that alone.

I know (said Mr. W.) that the gentleman from South Carolina cannot anticipate the application of force in the case now presented; but I pray him, again and again, to advert to one particular paragraph of the ordinance. There were several cases in which the use of force is referred to in the ordinance, in which Mr. W. admitted the right to use it. If, for example, as in a case supposed, Congress intended to overrun and subdue the State of South Carolina, and overturn their liberties, he admitted the right of resistance by force. But, come down to the contingency in which the ordinance declares that force shall be used, and it is in the event of the attempt by the United States to enforce the

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execution of the revenue laws. "Enforce" is the word employed by the ordinance. For the meaning of this word it was not necessary to resort to Johnson or Webster: the law may be "enforced" by execution, by judicial process, by a simple demand of payment of duties by a United States officer. It needs not the iron grasp of power, the naked sword, or the fixed bayonet, to constitute enforcement of the laws. You enforce the laws every day, and every hour of every day, in the most tranquil state of society. This enforcement of the laws it is which is, after the 1st of February, to be construed into an attempt to put down the people of South Carolina, and to justify the calling forth of thousands upon thousands of armed men to resist it.

Mr. W. here referred to the Charleston Mercury, which he held in his hands, containing the proceedings of a great meeting held at Charleston, South Carolina, on the 21st instant, among which were a number of resolutions, adopting the cockade to which he had reference yesterday, intermingled with notices of "Call to arms!" "Attention volunteers!" &c.; and one of these resolutions (which he read) declares that the persons assembled at this meeting not only affirm the right of the State peaceably to secede from the Union, but are prepared, if needs be, to peril their lives in the assertion of this claim, &c. Yes, sir, said Mr. W., if not prevented, secession is at hand; for the very moment that the marshal of the district calls out the *posse comitatus*, and heads that posse to enforce a judgment of the federal court to compel the payment of duties on imports, (after the 1st of February,) then has the contingency occurred of an attempt to enforce the laws; then has secession become the alternative. With regard to secession, Mr. W. went on to cite cases to show the consequences to which the admission of this right in any State would lead, should other States adopt the heresy affirmed by the meeting whose proceedings he had read. This view of the subject he followed by saying, that nullification, unless merged in revolution, was not to be stopped. The honorable member had told the House, that laying this bill on the table, and passing the bill depending in the other House, would put a stop to nullification. But what surety was there even of this? After the 1st of February, nullification, with all its attributes and incidents, was to be in full operation in South Carolina. What would be its political operation? Where would it end? He put this question plainly to the gentleman from South Carolina. A convention of the States was out of the question; an amendment of the constitution was out of the question—where was the contest to end? Why, the laws must be suspended. South Carolina, whilst represented on this floor, (ably as she is, and he hoped long would be,) participating in the making of laws, would be obeying just such of them as she pleased, and no more—cutting and carving with her own sword to suit herself! What a state of things was this!

[Mr. CALHOUN here said, that South Carolina would be content to maintain this contest upon the principle of protection, paying, without objection, whatever taxes might be required to be levied for the purposes of revenue.]

Mr. WILKINS—If South Carolina appeals to the federal judiciary, she can bring up the question of the validity of any part of the revenue laws for decision, by the federal courts. Mr. W. had no doubt of the influence of the Senator from South Carolina over the people of that State, but no one had the power to say what course that State would take if the suggestion of the Senator should be adopted. We must take this matter as we unfortunately find it. The merchants of Charleston may import goods free of duty, and the merchants of Baltimore, New York, &c., must pay duties. The people of South Carolina are exempt from all taxation by duties on imports, which is the only taxation known to our laws; and the people of the rest of the Union are compelled to pay taxes. South Carolina participates in the benefits, but not in the burdens of the Government. The ordinance, to this effect, South Carolina is pledged to maintain; and it declares that no power shall prevent free ingress and egress into and from her ports. Every stream of water in the limits of the State, accessible from the ocean, is made a free port. Wherever goods are introduced and landed, all obligation to pay the duties vanishes before the magical influence of nullification.

The State of South Carolina is, *quoad* the revenue laws, out of the Union. As to the revenue system, our fellow-citizens of South Carolina are gone from us. What, then, is to prevent the goods imported into the State from being distributed into every part of the interior and along the coast? A legalized system would be introduced—he would not say of smuggling, for he would not impute so opprobrious a crime to the authorities of that State; but free ports make free goods, and nullification makes free ports. Well, sir, what will prevent the goods from being sent to other States? Take the marks off from the goods, and they may be sent anywhere. If nullification exempt goods from duties in South Carolina, it exempts them everywhere. They are marked "State rights," and the vessel is called "State sovereignty." They will not be imported under the glorious flag of the Union, but under the flag of South Carolina. South Carolina has got her ordinance. Now we shall see how she will put it in execution, how it works practically. It will make general confusion, defeat equality in public burdens, and demoralize the community.

As nullification is now about to go into full operation, what is to stay the hands of South Carolina, and prevent her from executing her present purpose? He was aware of the wide range of discussion which the question connected with this subject would lead to. But this was the time for bringing those questions

before Congress for decision. They should decide now, in one way or other. I am young and stout, said Mr. W., and am willing to see the question tried, and to abide the end of it. The whole question comes to a single point. What is the constitutional relation of a single State to the United States? If the Government is merely an "alliance of States," a federal league between several distinct and independent sovereignties, from which any one may withdraw, there is an end of the question and of our bill. For South Carolina, leaning upon her sovereignty and reserved rights, has exercised the power which she claims of obeying and disobeying a law of the Union, just as he may construe it to be constitutional or unconstitutional.

An attempt on his part to throw any additional light on this subject would be as unnecessary as to contribute a drop of water to the ocean. It was enough for him that he had a few well-settled principles on this point, which he had always entertained, and which had been acted on from the foundation of the Government to the present time. The constitution was formed by the people. It was adopted by the States, which, like individuals, surrendered a portion of their sovereignty for the security of the rest. Those powers which are thus surrendered, however limited in number, are supreme in extent and application. The second paragraph in the 6th article of the constitution was, as it appeared to him, framed to meet this very case—to meet State legislation, State nullification—to meet the case of State legislation which attempts to overthrow national legislation.

"This Constitution, and the laws of the United States, which shall be made in pursuance thereof, and all treaties made or which shall be made under the authority of the United States, shall be the supreme law of the land, and the judges in every State shall be bound thereby, any thing in the Constitution or the laws of any State to the contrary notwithstanding."

This supremacy of power was necessary for the general welfare, because it consists in the use of powers which could not be confined to, nor exercised by, any one State. We always had a Union. The great object of the people, from one period to another, has been to render the Union "more perfect." Virginia took the lead in the last attempt, and her statesmen were among its former champions. Experience had manifested the want of a supreme power to bear immediately upon the people of the States. The laws of the old confederation bore on the States alone. Hence the constitution begins, "We, the people;" and the conclusion of the 8th section of the 1st article, giving power to Congress "to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this constitution in the Government of the United States, or in any department or officer thereof," and the emphatic conclusion

declaring such laws to be the supreme law of the land, in the aggregate sense of the term.

We owe allegiance both to the United States and to the State of which we are citizens. Are there, sir, any citizens who owe no allegiance to the United States? Have the people of South Carolina abandoned the proud title of citizens of the United States? Has the General Government any power or quality of political sovereignty at all? If it has, that power must be brought to bear directly upon the people of the States, and of each State.

The Government of the United States forms a part of the Government of each State, enters into it, and supplies whatever may be wanting in State powers. You cannot bring about obedience to the laws, if their obligations and binding force are not directly on the people. If the laws are brought to bear on the States, they may wrap themselves up in their sovereignty and their reserved rights, resort to nullification, and, claiming the power to put their veto on the acts of Congress, they may overthrow your whole system of legislation. This doctrine impairs not the sovereignty of the people. The people retain their sovereignty in reference to the United States as well as to their respective States. They act here as well as in their State Legislatures. Whenever you exercise one of your great constitutional powers, the people act here, and are therefore bound by the law which they themselves made. This is the perfection of political institutions. The people make the laws, and the laws govern. The States are secure in their rights, and always were secure. He admitted their original absolute sovereignty; but, as he had said before, they yielded up a portion of that sovereignty for the general good.

This is a constitution of power "granted," as a lawyer would say, "for a valuable consideration." By the grant of these powers, you created the constitution of the Union. You cannot take them back at pleasure. Here are we asked—can the creature be greater than the creator? No. But the creator may be bound by the act of the creature; the principal may be bound by the act of the agent, if the agent acts in pursuance of delegated power, particularly when the interests of third persons are concerned. We say to South Carolina, our prosperity depends upon the permanence of a system which you created; and you cannot take back the power which you gave to your agents to exercise.

On the subject of practical nullification, Mr. W. said he had made some notes, and the very circumstances which he had anticipated had happened. From a late number of the Charleston Mercury, which he held in his hand, he read an account of a great State rights meeting at Charleston, whereat resolutions were adopted for forming companies to import goods free of duty. The merchants of South Carolina would, it was thought, be reluctant to hazard their commercial credit and convenience by

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availing themselves of the replevin law; and it had been doubted, whether the force of the ordinance would be tried. But, as he had expected, the politicians, not the merchants, had formed a plan for trying the experiment. Preparations had been made to bring the question to an issue as soon as the 1st day of February arrived. He had made a note of the questions which would arise out of these considerations, but he would not detain the Senate by noticing them.

He would pass to the consideration of the provisions in the bill. The first section of the bill contains provisions which are preventive and peaceful. Mr. W. then read from the first section of the bill, as follows:

"Be it enacted, &c. That whenever, by reason of unlawful obstructions, combinations, or assemblages of persons, or unlawful threats or menaces against officers of the United States, it shall become impracticable, in the judgment of the President, to execute the revenue laws, and collect the duties on imports in the ordinary way in any collection district, it shall and may be lawful for the President to direct that the custom-house for such district be established and kept in any secure place within some port or harbor of such district, either upon land or on board any vessel," &c.

It enjoins forbearance on the Executive, and gives him power to remove the custom-house to a secure place, where the duties may be collected. It leaves the ports and districts as they now are, open for the commercial convenience of the good people of the State; and even the custom-house would not be taken from the port or harbor where it now is. Our object in removing the custom-house is to prevent all collision, if possible. The words "threats and menaces" do not run through the residue of the section. The power given in this clause is not new; the clause is simply declaratory of the existing law, as it has been held by our courts; for it has been decided, that where it is impossible to collect the duties, the officers of the customs may remove the custom-house.

The next paragraph provides for the cash payment of duties under circumstances which render it impossible to collect the duties in the ordinary way. This is no great matter. We have already abolished the credits on duties to some extent, and this law carries out the system farther. Why should the practice of taking bonds be persisted in when they say they are not bound to pay the bonds. It is a mockery to take bonds when the constitution and the law release the people bound from the obligation of the bonds. Suits must be brought to enforce the payment of the bonds, and the authority of the State and federal tribunals would thereby be brought into conflict, which conflict the bill sought to avoid. The 62d section of the act of the 2d March, 1799, refuses credit to merchants who have refused to pay their bonds. The same principle is applied to the present case, where people are combined to prevent the payment of bonds.

The third and remaining exigency provided for in this first section is the authority to employ the land or naval forces, or militia. This provision is entirely defensive. It merely confirms the authority for the protection of the custom-house and revenue officers. The simple question is—do you require obedience to the laws? How can you make the people of South Carolina pay the duties? The custom-house officers are not sufficiently numerous to enforce obedience to the laws; pains, penalties, indictments, all hang over the head of that man who is bold enough to exact payment. The Legislature forbids the enforcement of the law; and he who attempts to enforce it must suffer the penalty of the law as surely as he is convicted of the offence. The marshal, in this stage of the business, cannot interpose. The militia cannot be called out, for the best reason in the world—that they are committed in support of the other side of the question. Now what is to be done? It is the duty of the President to take care that the laws shall be executed. He is invested with the power by the constitution, and the public hold him responsible for its exercise. You can vest the power nowhere else. The first section of the second article of the constitution invests the President with the "executive power," and he is required to take an oath faithfully to execute the office and preserve the constitution. The second section of the same article makes him the commander-in-chief of the army and navy of the United States, and of the militia, when called into actual service. The only question is—is it necessary to give these means to enforce the laws? If we intend to enforce obedience to the laws, these powers must be given, and nowhere can they be constitutionally lodged but in the President. We give Andrew Jackson power simply to execute, for a limited time, the revenue laws of the country. Well, we confide this power to a man who has never abused any power reposed in him. He said that these proceedings were long anticipated. They were the subject of discussion during the late Presidential contest. Every vote had an eye to the South. He spoke this with respect to the other candidates, all of whom he knew would have supported the constitution. He made no invidious distinctions.

Why did South Carolina throw away her vote on a distinguished individual, who was not a candidate? With an eye to this question. Why did the people of the United States vote for Andrew Jackson? With a view to this same question. For this provision in the law there was a precedent, to which he would refer. The act of 9th January, 1809, sec. 11-13, vol. 4, p. 194-'5, to enforce the embargo, &c. The 2d section of the bill extends the jurisdiction of the circuit courts in revenue cases. It gives the right to sue in these courts for any injury incurred by officers, whilst engaged under the laws of Congress in the collection of duties on imports. It declares that property taken under the authority of the laws of the United States

shall be irrepleviable, and only subject to the order and decrees of the courts of the United States; and it gives the penalty for the rescue of the property as is prescribed by the act of 30th April, 1790, sec. 22, vol. 2, p. 95. The provisions of that law make the penalty not exceed three hundred dollars, and imprisonment for three months. This section has two objects in view: first, it gives power to the officers to sue in the federal courts; and second, it provides that they shall not be dispossessed of property seized by them under the laws of the General Government, without the authority of the courts of the United States. The object of this section is to meet legislation by legislation. There is nothing in this provision shocking or harsh.

The laws of South Carolina, made to enforce the ordinance, are harsh and oppressive beyond any of the feudal laws. Under the replevin act of South Carolina, the goods are first seized; if they are not given up, the return is made, and a *capias in withernam* issues; there is then a suit to recover back the duties; the custom-house officer cannot remove the suit to any other court, and the judges and jurors who are to decide the case are under oath to support the ordinance. For this misdemeanor the officers are subject to a fine of five hundred dollars and two years' imprisonment. And they are liable to have their own property to double the amount of the goods seized, taken, and carried away. Every professional man knows to what cases a replevin law is usually confined. It views the custom-house officer, while discharging his duty, as a trespasser. If the replevy is not obeyed, the intermediate inquiry which the common law provides is discarded, and a writ of reprisal issues. It is not left discretionary with the sheriff to take enough to satisfy the demand; but he is bound to take double the amount. There is no danger that this part of the law can ever be executed, for no one person will have property enough for so tremendous a grasp. The goods are taken finally from the custom-house officer and carried off; and if he attempts to recapture them, he is liable to a fine of ten thousand dollars, and two years' imprisonment. No such indictment is subject to traverse; that is, the accused shall not cross it; he shall not deny the facts alleged; he shall not plead "not guilty." This is the technical effect of refusing a traverse. But can the word be taken in that sense in South Carolina? Perhaps the word, as used in the ordinance, has a meaning peculiar to the South.

Mr. MILLER explained. The word had a peculiar meaning in South Carolina. At the first court the accused could traverse, but he had no right to continue the action. The ordinance denied the right of the accused to continue the case after the first term, except for cause shown. The ordinance, in creating this misdemeanor, merely applies it to the legal forms which in that State apply to all misdemeanors.

Mr. WILKINS.—It was apparent that the constitution of the courts in South Carolina makes

it necessary to give the revenue officers the right to sue in the federal courts. It was not intended to restrict this right to any amount in controversy, nor to citizens of other States. It falls under the clause of the constitution which gives jurisdiction to the United States courts in all cases arising under the constitution, treaties, and laws of the United States. He would put a case in a few words: Suppose the collector of the port of South Carolina is prosecuted. He is carried to prison, or the *capias in withernam* is issued against him. His property is carried off and sold. The case comes before the State court. He sets forth that, under the laws of the United States, he was obliged to do his duty. On the other side, it is said that the laws of the United States had been nullified; and the State laws had taken their place. Out of this issue springs a case provided for by the bill. But it is objected that the case will arise under the State law. But, shape it which way you may, the case arises out of the laws and Constitution of the United States, and the judicial power extends to all cases in law and equity. It ought to be so. There ought to be a judicial power co-extensive with the power of legislation, and a co-extensive executive power. Without this co-extensive power, legislation would be useless in a free Government. Neither domestic tranquillity, nor uniformity of rules and decisions, can be secured without it.

It may be said (continued Mr. W.) that in this way you overturn the State legislation, and that they ought to give their own direction to State controversies. So they may; but let them not come in collision with the constitution and laws of the Union. In every controversy within any State, arising under a State law, coming in collision with the constitution, or with a law of the United States, the federal courts have appellate jurisdiction. He felt himself too much exhausted to read a case or two to which he desired to call the attention of the Senate. But he meant to content himself with a mere reference to the case of *Martin vs. Hunter's lessee*, in 1st Wheaton, p. 304, and the case of *Cohens vs. the State of Virginia*, 6th Wheaton, p. 584, where this point had been decided. If appellate jurisdiction be given, the original could not be desired. All the residuum of jurisdiction remaining, after the original jurisdiction given in specified cases to the Supreme Court, might be exercised in any way by the inferior courts that Congress might direct. These observations were applicable to the third section of the bill, which also provides for the extension of judicial jurisdiction, by allowing the party or officer of the United States sued in the State courts for executing the laws of the Union, to remove the case to the circuit court. It gives the right to remove at any time before trial, but not after judgment had been given; and thus affects in no way the dignity of the State tribunals. Whether in criminal or in civil cases, it gives this right of removal. Has Congress this power in criminal cases? He would answer this question in the

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affirmative. Congress had the power to give this right in criminal as well as in civil cases, because the second section of the third article of the constitution speaks of "all cases in law and equity;" and these comprehensive terms cover all. He referred to the case of *Matthews vs. Zane*, 4th Cranch, page 382, which decides that, if two citizens of the same State, in a suit in their State court, claim title under the same act of Congress, the Supreme Court has an appellate jurisdiction to revise and correct the decision of that court.

The decision was founded upon the principle that the 3d act of the constitution, considered in connection with the judiciary act of 1789, would not give it a more extensive construction than it merited; and that the great object was, to render uniform the construction of the laws of the United States, and decisions under them upon the rights of individuals; and in such case it was entirely immaterial that both parties were citizens of the same State.

It was admitted by Mr. Harper, counsel for defendant in error, that the exercise of jurisdiction in such case would be undoubted, if it was to maintain the authority of the laws of the United States against encroachments of the State authorities. The clause in the constitution to which he had adverted refers to the character of the controversy, without regard to the parties, or the particular form of the action. The object of the suit, and not the tribunal, determined the jurisdiction. Was it to try the validity of an act of congress? That question determined the jurisdiction. Was it to try any indictment for treason? That question determined the jurisdiction. It was more necessary that this jurisdiction should be extended over criminal than over civil cases. If it was not admitted that the federal judiciary had jurisdiction over criminal cases, then was nullification ratified and sealed forever: for a State would have nothing more to do than to declare an act a felony or a misdemeanor to nullify all the laws of the Union. There were numerous prejudices—prejudices peculiar to particular States, which, under any other view, would throw all jurisdiction into the State tribunals.

Mr. W. would put a case to the Southern gentlemen, by way of illustration. It was one which they would feel disposed to resent, and one to which he felt a repugnance to refer; but he would take it as illustrative of the opinions he had thrown out. There was to be found in the constitution a clause which gives the right to the owner of a slave to pursue him from one State to another, and to take him wherever he may find him. Now it was known that there was in some States a strong feeling on this subject, and that particularly was this sensibility to be found in the State of Pennsylvania, where it was carried to a very great extent. In great party times, he would suppose that a party in Pennsylvania rallied on this great principle. Pennsylvania was covered over with zealous and highly respectable abolition societies. He would

suppose that Pennsylvania carried these feelings to such an extent, as to pass a law to nullify this clause in the constitution. He stated that he had, in the judicial station which he had occupied, had cases brought before him for decision, in which he had felt it to be extremely difficult to keep down this feeling. It had been even contended before him that the pursuit of the slave by his owner into that State was an unconstitutional act. He would suppose that Pennsylvania was to pass a law, declaring that the moment a slave sets foot on her soil, he shall be at once elevated to the rank and privileges of a freeman, and that thus she should nullify the clause in the constitution on this point.

It would be deemed very hard by the southern gentlemen that they could not try the question of the constitutionality of that law before the Supreme Court. And if the State of Pennsylvania were to pass a law imposing a fine of ten thousand dollars and five years' imprisonment on any owner of a slave found in pursuit of him, and that her jurors and judges are all sworn to regard this law, he would ask whether the United States courts could not have jurisdiction in this matter. The power of the Judiciary would be entirely nugatory if it could be evaded by throwing the case into the form of a criminal proceeding. He referred the Senate to the cases of the United States *vs. Moore*, 8d Cranch, p. 159, where it was admitted that Congress might give the power; and to that of *Martin vs. Hunter's lessee*, 1 Wheaton, p. 350-1, where it was admitted that criminal are the strongest cases.

The fourth section of the bill was merely matter of form. There was no constitutional principle involved in it. It only authorized the courts of the United States to supply the want of a copy of the record. It was intended to obviate the difficulty which was likely to arise from the novel provision contained in the 8th section of the replevin law of South Carolina, which makes it penal in the clerk to furnish such record. This provision did not meddle with the penalty of the clerk of the State court, but contented itself with providing means to supply the deficiency.

The fifth section authorizes the employment of military force under extraordinary circumstances too powerful to be overcome without such agency, and to be preceded by the proclamation of the President. What he had already said had reference also to this section of the bill. He would now merely refer the Senate to some precedents.

The first precedent which he would notice was to be found in the act of May 2d, 1792, vol. 2, p. 284, repealed by the act of February 28, 1795, renewing the power to call forth the militia, which act was still in force. This law grew out of the Western Insurrection in Pennsylvania. Like the present bill, although it was merely intended to meet that exigency, it was so framed as to continue in force. So the bill under consideration, although it had special reference to South Carolina, pointed not to her

alone. If the opposition to the laws should extend itself, and the spirit of disobedience should exhibit itself, whether in the South or the North, the general principles of the bill would be equally applicable. It was an amendment of our code of laws to which the attention of Congress had now been called, and which was rendered immediately necessary by the peculiarity of our present situation.

The second precedent to which he would invite the attention of the Senate was the act of the 3d of March, 1807, vol. 4, p. 115, "to suppress insurrections and obstructions to the laws," and "to cause the laws to be duly executed." That act authorized the President to call out the land and naval forces to suppress insurrections, &c. These were the objects for which then, as in the present bill, this extraordinary power had been conferred.

Another precedent would be found in the act of January 9, 1809, sec. 11, vol. 4, p. 194, to enforce the embargo, and which gives the power to employ the land and naval forces, in general terms, to assist the custom-house officers. There was at that moment a great excitement, although nothing like the solemn position in which South Carolina has now placed herself. Yet it was deemed expedient to confer on the President this power.

He would now refer to the last precedent with which he should trouble the Senate. It so happened in the history of Pennsylvania, that that State took from Virginia a strip of land bordering on the Alleghany and Ohio Rivers. On this strip of land, where Virginia had been accustomed to exercise jurisdiction, for which she had opened the titles, and where she had held her courts, there arose an insurrection. This had been called the Western Insurrection, but it was a singular fact that it was confined to this narrow strip of land which Pennsylvania took from Virginia. The President was then authorized to call out the militia of the State, because they were not committed against the United States, but were willing to obey the call. The man to whose name history has no parallel put himself at the head of these troops to quell the insurrection. All power was placed in his hands by the act of November 24, 1794, vol. 2, p. 451, and the President was authorized to place in West Pennsylvania a corps of 2,500 men, either draughted or enlisted.

The sixth section of the bill had reference to the replevin law of South Carolina, and was justified and rendered necessary by the 12th section of that act, which prohibited any person from hiring or permitting to be used any building, to serve as a jail for the confinement of any person committed for a violation of the revenue laws, under penalty of being adjudged guilty of a misdemeanor, and fined 1,000 dollars, and imprisoned for one year. The State law, therefore, closes all the jails and buildings of South Carolina against prisoners held by process from the United States for a refusal to yield obedience to their laws. It was necessary, therefore, that

something should be done. The case might not be fully met by the resolution of 8d March, 1791, vol. 2, p. 286; and this section merely incorporates that provision, without the introduction of any novel principle.

The seventh and remaining section of the bill extends the writ of *habeas corpus* to a case not covered by existing laws. These laws do not extend to any other than cases of confinement under the authority of the United States, and when committed for trial before the United States courts, or are necessary to testify. He referred the Senate to vol. 2, p. 63, to the 14th section of the judiciary act. The present section merely extended the privileges of that act, which was so essential to the protection of the liberties of our citizens. It extended the act to cases of imprisonment for executing the laws of the United States. There would be nothing objectionable in this section; it came in conflict with no code of law. If a citizen were confined under the provisions of the ordinance of the 24th November, 1832, he could have no remedy under the laws as they now exist. As all such cases arose under the laws of the State of South Carolina, this section only extended the privileges of the writ of *habeas corpus* to meet those particular cases which had originated in the present state of things.

He had now done, having fully attempted to explain the reasons which had induced him to give his sanction to the bill. He should only say, in addition, that if it were the pleasure of Congress to enact this bill into a law, he should most fervently pray that no occasion might ever occur to require a resort to its provisions. It was his desire that the present bill, when it should become a law, might be rendered unnecessary by a return of the state of happy tranquillity which would renew the cement of our Union, and might lie for ages to come, without the necessity of reference to its provisions, slumbering in the libraries of the lawyer and among the archives of legislation.

THURSDAY, January 31.

Revenue Collection Bill—Powers of the Federal Judiciary.

The Senate resumed the consideration of the bill further to provide for the collection of the duties on imports.

Mr. BRAS felt very sensibly, he said, the weight which devolved upon him in sustaining his views of this subject against an authority so highly respectable, and so deeply seated in the affections of the people, as the author of the proclamation, to the doctrines of which it had become his duty to advert. But whilst he stood on the principles of the constitution; whilst he had on his side the opinions of patriots, of lovers of liberty; opinions which were delivered by some of the most eminent of the men who framed the constitution, which opinions were promulgated throughout the United States for

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the purpose of inducing the adoption of the constitution, he felt himself clad in armor impenetrable to adverse argument, the high authority of the proclamation notwithstanding.

What clause in the constitution delegates to the Federal Government the sole power of deciding the extent of the grant of powers to itself, as well as the extent of the powers reserved to the States?

It is said that this power is vested by the constitution in the Supreme Court of the United States. The provisions are,

"The judicial power shall extend to all cases in law and equity, arising under the constitution, the laws of the United States, and treaties made, or which shall be made, under their authority."

"This constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every State shall be bound thereby, any thing in the constitution or laws of any State to the contrary notwithstanding."

These are the two provisions of the constitution which are referred to as delegating the power to the Supreme Court, to be the sole judge of the extent of the powers granted and of the powers reserved, and as denying to the States the sovereign power of protecting themselves against the usurpation of their reserved powers, authorities, and privileges. If the delegation to the Supreme Court, and prohibition to the States, are not contained in these two clauses, then they are not to be found in the federal constitution.

The latter clause cannot touch the question in debate, for that only declares the supremacy of the constitution, and the treaties "and laws made in pursuance thereof." Powers exercised contrary to the constitution, acts done contrary to the constitution, by the exercise of authorities not under but in violation of the constitution, and by usurpation of State rights, State authorities, and State privileges, are the subjects under consideration.

Let us examine the former clause: "The judicial power shall extend to all cases, in law and equity, arising under this constitution." The case must be of "judicial power;" it must be a case, "in law or equity," arising under the constitution. The expression is not "to all cases arising under the constitution, treaties, and laws of the United States;" but it is "to all cases in law and equity."

"Use is the law and rule of speech." By this law and this rule we must examine the language of the constitution.

A judicial power is one subject; a political power is another and a different subject. A case in law, or a case in equity, is one subject; a political case is another and a different subject.

Judicial cases in law and equity, arising under the regular exercise of constitutional powers, by laws and treaties made by authority, are different from political questions of usurpation,

surmounting the constitution, and involving the high prerogatives, authorities, and privileges of the sovereign parties who made the constitution.

In judicial cases arising under a treaty, the court may construe the treaty, and administer the rights arising under it to the parties, who submit themselves to the jurisdiction of the court in that case. But the court must confine itself within the pale of judicial authority. It cannot rightfully exercise the political power of the Government in declaring the treaty null, because the one or the other party to the treaty has broken this or that article; and, therefore, that the whole treaty is abrogated. To judge of the breach of the articles of the treaty by the sovereign contracting parties, and in case of breach to dissolve that treaty, and to declare it no longer obligatory, is a political power belonging not to the judiciary. It belongs to other departments of the Government, who will judge of the extent of the injury resulting from the violation, and whether the reparation shall be sought by amicable negotiation, or whether the treaty shall be declared no longer obligatory on the Government and the people of the injured party. Yet, by the law of nations, the wilful and deliberate breach of one article of a treaty is a breach of all the articles, each being the consideration of the others; and the injured party has the right so to treat it.

By the act approved on the 7th of July, 1798, the Congress of the United States declared themselves of right freed and exonerated from the stipulations of the treaties and of the consular convention theretofore concluded between the United States and France, and that they should not thenceforth be regarded as legally obligatory on the Government or citizens of the United States, because of the repeated violations on the part of the French Government, &c.

Before this declaration, the Supreme Court of the United States was bound, in cases of judicial cognizance coming before them, to take the treaties as obligatory, and to administer the rights growing out of the treaties between France and the United States. After that declaration, the court was bound to consider the treaties as abrogated. The courts had no power, before the act of July, 1798, to inquire into violations, and therefore to declare the treaties not obligatory. After that act, they had no power to demand evidence of the violations recited, and revise the political decision of the Government.

To declare these treaties no longer obligatory was a political power, not a judicial power. Yet the violations of these treaties, committed under the authority of the French Government, and the consequent injuries to the citizens and Government of the United States, and the rights of the United States consequent therefrom, before the act of July, 1798, were "cases arising under the constitution" and treaties of the United States. But the judicial power did not extend to those cases of violation, so as to

declare the treaties no longer obligatory. The question whether those violations should or should not abrogate the treaties, did not make a case in law or equity for the decision of a judicial tribunal. Yet they were cases arising under the constitution. The power to decide them belonged to the Government of the United States as a political sovereign; but the judicial power did not extend to them; those cases belonged to the political powers, not to the judicial powers of the Government.

The British courts of admiralty executed upon the commerce of the United States the British orders in council, disclaiming the power to decide whether those orders in council were conformable to the general law of nations, which every nation is bound to respect and observe. In like manner, the French courts of admiralty executed upon the commerce of the United States the Berlin and Milan decrees.

The British and French courts had not cognizance to judge the sovereign powers of the nations, and to declare those orders and decrees contrary to the law of nations; that was not a judicial power. So the courts of the United States, even the Supreme Court, had not the power to declare the treaties between the United States and France, and Great Britain, no longer obligatory upon the citizens and Government of the United States, because of the multiplied wrongs and injuries committed upon the citizens of the United States under color of those orders in council and decrees, infracting the law of nations and treaties, and hostile to the rights of the Government of the United States. Those cases, in their effects upon the treaties and amicable relations between the United States and those Governments, did not fall within the judicial power of the courts of the United States. Those questions did not fall within the description of "cases in law and equity," as used in the Constitution of the United States, in conferring, vesting, and defining the powers of the judicial department. Those political powers belong to other departments of the Government. According to the law and rule of speech established by use, such powers are classed under the denomination of political powers, prerogative powers, not under the head of judicial powers.

Before I proceed to illustrate by other examples the distinctions which I have taken between political powers and judicial powers, between political questions or cases and judicial questions or cases, I will refer to the declaration of one whose opinions on constitutional questions I know will command respect; a man to whose opinions I willingly yield my respect, without, however, submitting with that implicit faith which belongs to fools. On the resolutions of Mr. Livingston, touching the conduct of President Adams, in causing Thomas Nash, *alias* Jonathan Robbins, to be arrested and delivered over to a British naval officer, without any accusation, or trial, or investigation in a court of justice, Mr. Marshall, then a representative of Virginia, now chief justice of the

United States, in defending the conduct of the President, thus delivered his opinion in that debate.—(Appendix 5, Wheaton, p. 17.)

"By extending the judicial power to all cases in law and equity, the constitution had never been understood to confer on that department any political power whatever. To come within this description, a question must assume a legal form for forensic litigation and judicial decision. There must be parties to come into court, who can be reached by its process, and bound by its power; whose rights admit of ultimate decision by a tribunal to which they are bound to submit. A case in law or equity may arise under a treaty, where rights of individuals acquired or secured by a treaty, are to be asserted or defended in courts." * "But the judicial power cannot extend to political compacts." This distinction between a political power and a judicial power is recognized and acted upon by the Supreme Court of the United States, in the case of *Williams vs. Armroyd*, 7 Cranch, 433, 439.

Again in the case of *Marbury vs. Madison*, (1 Cranch, 137; 1st Peters' Condensed Reports, 279,) this distinction between the political powers of Government and the judicial power is most explicitly avowed and recognized by the Supreme Court. The supremacy of that court is a judicial supremacy only. It is supreme in reference to the other courts, in questions of a judicial character, brought within the sphere of judicial cognizance by controversies which shall have assumed a legal form for forensic litigation and judicial decision. There must be parties amenable to its process, bound by its power, whose rights admit of ultimate decision by a tribunal to which they are bound to submit. "Questions in their nature political, or which are by the constitution and laws submitted to the Executive, can never be made in this court."

The decision of the Executive, upon political questions submitted to its discretion, is as supreme as the decision of the court within its jurisdiction. Neither department ought to invade the jurisdiction of the other; so said the Supreme Court of the United States in *Marbury vs. Madison*. A judicial decision binds the parties litigant in that particular case, not others who are neither parties nor privies, whose rights and privileges are separate and distinct. Not even the court itself is bound to give the like decision between other parties, where a similar question may be involved. Prudence will dictate that a former decision be not lightly disregarded, but adhered to in a subsequent case, unless the judges see an error in the former decision. But honesty requires that an erroneous opinion be not carried into doctrine, and error perpetuated, merely because of the first error. Errors should be corrected, not perpetuated. To err is the lot of man; to correct

* For the entire speech of Mr. Marshall, see vol. 2, p. 457 of this Abridgment.

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an error, is noble and praiseworthy. No decision binds in law, or in morality, beyond the rights of the parties litigant, and those claiming under them as privies; and even there, not until the time for a new hearing or re-trial has expired. But as to all other persons, it binds not. It is contrary to the first principles of justice, that the rights, interests, and privileges, of any person should be decided, negatived, and abrogated, before he is heard to make good his title and his claim, his rights and his justification. God in his infinite wisdom did not condemn Adam unheard. And this example of divine wisdom and justice is fit to be imitated by human tribunals.

When parties present themselves before the Supreme Court of the United States to litigate the judicial question involved in that controversy, the decision of the court binds the rights and interests therein represented and litigated; it binds no others.

The public rights, privileges, authorities, and prerogatives of the States, are not the property of individuals, and cannot be represented and brought up for decision by individuals.

In a case between two citizens, parties to an ejectment, claiming lands, the one party under a grant from the State of New York, the other under a grant from the State of Connecticut, in the gore which was claimed by both States, the court was competent to decide the private rights and interests of the parties. But that decision could have no controlling influence over the line of jurisdiction between the two States; because those States were not parties. So said the Supreme Court of the United States in the cases of *Fowler vs. Miller*, and *Fowler vs. Lindsay*, (8 Dallas, p. 411.) And one of the judges, in delivering his opinion, with whom all concurred, asked emphatically, "On what principle can private citizens, in the litigation of their private claims, be competent to fix the important rights of sovereignty?"

The twelfth amendment to the constitution takes away the jurisdiction which had been given to the Supreme Court to hold jurisdiction of a suit against one of the United States by a citizen of another State, or by citizens or subjects of any foreign States; but leaves the jurisdiction conferred over controversies between two or more States. If two States, therefore, have a controversy, which, in its character, makes a case in law or equity proper for judicial cognizance, it may be brought before the Supreme Court. Controversies between two or more States, about territory or limits, may be litigated before the Supreme Court of the United States. But then each State must have an opportunity, as a party, to prosecute or defend her right before the decision can bind her. Those are questions of *meum et tuum*; rights of property which one State claims to the exclusion of the other; not political rights belonging to all the States respectively, where the rights and powers of one State do not exclude but establish the rights

of each and every other. Such rights claimed for all, as belonging equally to each and every of the States respectively, cannot make a controversy in law or equity between two States.

Political powers not delegated to the Federal Government, political powers reserved to the States, constitute the subjects of the propositions which are affirmed on the one side, and denied on the other. The propositions affirmed are, that the powers of the Federal Government result from the compact to which the States are parties; that these powers are limited by the plain sense and intention of the instrument constituting that compact, and no further valid than they are authorized by the grants enumerated in that compact; "than that, in case of a deliberate, palpable, and dangerous exercise of other powers, not granted by the said compact, the States, who are parties thereto, have the right, and are in duty bound, to interpose for arresting the progress of the evil, and for maintaining, within their respective limits, the authorities, rights, and liberties, appertaining to them."

If the Congress of the United States usurp and exercise a power not delegated, but reserved, it is evident that the controversy about this exercise of power must be between the Government of the United States and the States. How is this controversy to get into the courts, and finally to the Supreme Court, so as to bind the State as one party, and the Government of the United States as the other party? For on no principle can private citizens, in the litigation of their private claims, be competent to fix the important rights of sovereignty. A decision in a case to which a State is not a party cannot bind the State; it is *res inter alios acta*. So said this court, to whom these litigated questions of the limits of sovereign power are supposed to be referred, by those who deny the right of the States to interpose.—*Fowler vs. Miller and Lindsey*, 8 Dall. 412.

Mr. Callender was tried, convicted, and sentenced to fine and imprisonment in the State of Virginia by the federal court, under the sedition law. Now, it is clear that Mr. Callender was not in his individual person the representative of the State of Virginia, so as to bind that State by the decision, and fix her sovereign rights. Mr. Lyon was tried and sentenced in Vermont under the sedition law by the federal court; yet that decision did not bind the State of Vermont. Mr. Cooper was sentenced for sedition by the federal court in the State of Pennsylvania, yet that did not bind that State; neither did all these decisions bind the States, nor settle the point that the sedition act was valid and constitutional; nor would the decision of the Supreme Court have had that effect if such cases could by law have been carried to the Supreme Court.

To bind a State, and command obedience to the decision of the Supreme Court, in a question relating to a dangerous usurpation of powers not delegated, but retained by the States, it is necessary that a case should be brought before

that court between the United States and a State, as parties litigant; because, according to the first principles of jurisprudence, none but the rights of parties are bound by the decision.

Where is the grant of power to the judicial department to hold a plea of controversy between the United States and a State, as parties in a controversy touching the political powers alleged to be reserved to the States, respectively, and not delegated to the Federal Government? Is there any thing in the constitution which gives color to the idea that a suit can be maintained in the Supreme Court, or in any of the inferior courts, between the United States as plaintiffs and a State as defendant, or between a State as plaintiff against the United States as defendant, to settle a controverted question of delegation and reservation of political powers? Would such a suit be a case in law or equity according to any usage of speech? Let us try to frame the complaint on the one side, and the defence on the other, and come to the judgment, upon the alien and sedition laws. What sentence is to be passed upon the State? I suppose that her resolutions were seditious and unconstitutional; that she should forever thereafter acknowledge that the alien and sedition laws were constitutional; that she repeal her false and seditious resolutions. Ridiculous!

Let the Attorney-General of the United States try to frame a bill in equity, or an indictment for the United States against a State or States; or the Attorney-General of a State to frame a declaration at law, or bill in equity, or indictment, for a State against the United States, to try the controverted questions of political powers delegated and retained by the States; draw out the plaint, and it will appear at first blush to be an anomaly, not known in the vocabulary of "cases of law and equity," not to be classed under the judicial power over cases in law and equity, according to any law or rule of speech. There is no grant of power to the Supreme Court to hold jurisdiction of any such plaint or bill. Such a plaint in law or in equity would be a novelty in the history of judicial powers. The portentous consequences of such a jurisdiction in the court would strike with terror and amazement as soon as such a process should be instituted.

The alien act of June, 1798, was enacted when the United States were at peace with all the world. By this it was declared that it shall be lawful for the President of the United States "to order all such aliens as he shall judge dangerous to the peace and safety of the United States, or shall have reasonable grounds to suspect are concerned in any treasonable or secret machinations against the Government thereof, to depart out of the territory of the United States within such time as shall be expressed in such order." Any alien, so ordered to depart, found at large within the United States, after the time limited in such order, and not having obtained a license from the President to remain,

was subject to be imprisoned, on conviction of such disobedience, and never admitted to become a citizen of the United States. To obtain a license, such alien was to prove his innocence, and to give bond and security for his good behavior, and for not violating his license; which the President, however, might revoke at his pleasure. All aliens ordered to depart, who did not obtain license to remain, were liable to be arrested and sent out of the United States, at the discretion of the President.

This act was not levelled against the citizens of any power, State, or potentate, at war with the United States, for there was then no declaration of war by the United States against any foreign power. There was another act passed in July, 1798, "respecting alien enemies," providing for a case of war, and operating only upon the citizens or subjects of the hostile nation or Government. This act of June, 1798, was levelled at alien friends; against those who had been invited by the policy of the States, and the genius and spirit of our free institutions, to fly from the oppressions and convulsions of the old world, and seek an asylum in the States; against oppressed humanity, seeking a home on our peaceful shores. All this numerous class of aliens, not then having completed their naturalization, were placed at the discretion of the President, to be removed upon suspicion, without the form of a trial, except in the mind and judgment of the President. The sedition law operated upon citizens as well as aliens.

These two acts, when made to bear against particular individuals, might have been the subjects of judicial investigation in each particular case; but the decision in such case would have affected only the personal rights of the individuals, parties to the judicial proceeding, but could not fix and bind the important rights of the State sovereignty involved in those two acts of Congress. Those acts, although they had never been brought to bear upon a single person, did invade the political rights and powers of the States, violated that security for liberty of speech, of the press, of the person, which the States respectively had a right, and were in duty bound, to maintain within their respective jurisdictions; and counteracted the policy and interests of the States, by driving from their shores alien friends, whom their laws had encouraged and invited to settle their vast tracts of wild, uncultivated lands; the faith of a sovereign State was pledged; that sovereign was bound to take care that its plighted faith was not violated by the usurpation of another potentate. The private rights and personal security of individuals, and the political rights, authorities, and powers of the State Governments, were both invaded and violated by these two acts. An individual might be indicted for sedition, and sentenced, or be arrested for refusing to depart according to the order of the President, and the court might refuse to discharge him upon *habeas corpus*. The private rights of the individual, when violated under

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color of the alien or sedition law, might be submitted to the judicial powers. But the political powers, authorities, and liberties of a State, violated by those laws, cannot be subjected to the judicial power of a federal court, supreme or inferior; they cannot be arrested, tried, condemned, removed or extinguished. Such cases as do not fall properly under the denomination of judicial powers, of cases of law and equity, according to common usage and acceptance antecedent to the constitution, required an enumeration and express delegation to the judicial department to hold cognizance of such classes, of which there are examples in the constitution; such as controversies between two or more States, and between a State and foreign States, &c.

The distinctions between political and judicial powers; between judicial cases in law and equity, and political cases; between the binding effect of a judicial decision on the parties litigant, and its want of obligatory force on others, not parties nor privies, are very necessary to be observed.

The disregard of the usage of speech antecedent to the constitution, and of the distinctions just mentioned, would remove the landmarks of the compact. It would convert the Supreme Court into a political council and board of control, to administer the political opinions of its members. It would confer on the Supreme Court powers too gigantic and terrific, too dangerous to the peace of the United States, to the reserved powers of the States, and to the safety of the Union.

It would carry along with it the power to the Supreme Court to decide upon the acquisition of new territories, and upon the admission of States into the Union, formed out of such purchased territories; the power to decide how far infractions of treaties and delays of reparation did abrogate those treaties between the United States and foreign nations.

The whole system of the United States, for ascertaining and adjusting private land claims in the newly acquired territories by commissioners, reserving the final decision to the Congress, depends upon the distinction I have taken.

Remove these distinctions, and the powers of the legislative and executive departments depend on the judgment of the Supreme Court; and the limits of its own powers would depend upon its own will.

A new mode of drawing to the Federal Government the reserved powers of the States is let in, which evades and puts to naught the safeguard to the minority of the States provided by the compact against amendments. The door is open to usurpation and tyranny, by giving the Federal Government the sole and entire control, independent of any control of the States.

By the theory of the constitution, if the Congress desire to exercise a new power not before delegated, they must draw upon the States for

a further surrender and delegation of another portion of their reserved powers. To sanction such new delegation of power, three-fourths of the several States must consent, by ratifying the amendment proposed. But in practice, under this new doctrine, that whatever power is sanctioned by the Supreme Court of the United States is constitutional, and the States have no power to interpose, a bare majority of both Houses of Congress, with the assent of the President and the Supreme Court, or two-thirds of both Houses with the assent of the Supreme Court, without the assent of the President, may alter the constitution at pleasure. If the Congress exercise any of the powers reserved to the States by passing an act, let the Supreme Court, in a litigation between two citizens, in which this law is incidentally drawn in question, sanction it as constitutional, then, according to this unlimited power, conferred on the Supreme Court by construction, the act would be constitutional law, sound constitutional doctrine. Protect the authors of the law from a public examination of their conduct, by the terrors of an alien and sedition law, to speak or to write against the authors of the law would be seditious; to oppose the law by force would be treason, rebellion! So say those who contend for the unlimited power of the Supreme Court to decide "all cases arising under the constitution and laws of the United States!" Deny the rights of the States to interpose to arrest the usurpation, and where is the remedy?

Happily, a Legislature cannot be indicted of sedition; a State cannot be indicted of treason, and arraigned at the bar of a court. The general revolt of a whole nation against usurpation and oppression cannot justly be called rebellion. Truth is comprehended by examining principles. A whole people resisting oppression, and vindicating their own liberty and the constitution, commit no crime in so doing. Private men, who swear allegiance to the constitution, who swear "obedience *ad legem*," swear no obedience "*extra vel contra legem*." The oath can detract nothing from the constitution; nothing from the public liberty, which the constitution was intended to protect. It admits the right to protect and preserve the constitution, and imposes a duty to avenge the violation of it.

By the constitution, the diversified particular interests of the States were intended to be under the regular action of the Federal Government, secured and reserved from federal legislation: 1st, by a judicious selection of the delegated powers, the exercise of which were most likely to promote the general welfare of all the States, and least likely to bear oppressively upon any one of them; 2d, by regulations and prohibitions upon the exercise of those powers so specified and delegated, so as to render their action uniform in all the States, and to guard against a preference or favoritism towards any of the States; 3d, by guarding against amendments which might delegate additional powers,

and divest the States of further portions of sovereignty, unless such amendments were proposed by two-thirds of the Houses of Congress, or two-thirds of the Legislatures of the several States, and afterwards ratified by three-fourths of the States.

But by this new doctrine of supremacy of the federal court, an irregular action of the Federal Government is substituted in place of amendment. Usurpation of power, if sanctioned by the Supreme Court, is made equal to an additional grant by an amendment of the constitution. A majority of the States combined in interest may, if sanctioned by the Supreme Court, exercise any powers not delegated, not necessary and proper to execute the powers especially delegated, but new substantive powers to the Government, added by construction, destructive of the particular interests and prosperity of a minority of the States—powers which two-thirds of both Houses, or two-thirds of the Legislatures of the States, would not propose; or, if proposed, would not be ratified by three-fourths of the States as an amendment to the constitution.

The Supreme Court of the United States is not such sufficient check and safeguard against the encroachments of the central Government upon the State Governments. The number of judges of the Supreme Court is not defined by the constitution. That number is but seven at present. Four are a majority of the court. But the number may be increased at the pleasure of the Congress and a President, so as to give a majority of a desired political cast. These judges hold their offices for life, removable by impeachment by the House of Representatives, and conviction by the concurrence of two-thirds of the Senators. Their responsibility is too remote, and the number too few for a high prerogative court, with power to adjust the political powers of the Federal and State Governments, and try the Federal Government when impeached of usurpation and encroachment upon the reserved powers belonging to the States. If the central Government be accused of encroachment and usurpation, its triers, the Supreme Court judges, are, in their turn, liable to be impeached and tried by the central Government. The Congress who commit the usurpation are the only persons who can impeach and try their judges. The offending Congress are to be tried by their judges; and the offending judges are to be impeached and tried by the offending Congress. There is but little wise and practical security in this against the encroachments of the central Government. No plaintiff would feel very safe if the defendant had the sole power to appoint the jury, with the power superadded to accuse that jury of misconduct, and try the accusation. It seems to me that if those wise and practical statesmen and patriots who framed the new federal constitution had designed the Supreme Court to be the sole prerogative court of high and ultimate commission to try the central Government for

usurpation of powers not delegated, and the final and sole safeguard for the reserved powers of the States, they would have devised some more certain and direct responsibility of the judges to the States, than by referring their impeachment to Congress, who must be parties, aiders, and abettors in the usurpation. The States would not have adopted the constitution if they had been informed that such was to be its interpretation.

Are there no dangers to liberty to be apprehended from referring all the political powers of the Federal Government, and all the reserved powers of the States, to the guardianship of a few judges appointed for life, not removable, except by impeachment for crimes and misdemeanors; not impeachable or removable for error of opinion? So far removed from responsibility, ("for impeachment is not now even a scarecrow,") if transformed into a political court instead of a judicial tribunal, is there no cause to apprehend that a majority of the judges may administer their theory of what the Government should be, instead of the theory as actually adopted by the States? Are no judicial opinions tintured and discolored with the party feelings and opinions of the day? Is there no cause to apprehend that the judges will follow up the maxim taught in the law schools, and issued from the bench, "*est boni judicis ampliari jurisdictionem*," not only to the enlargement of their own powers, but to the enlargement of the powers and increase of the jurisdiction of the Federal Government, as the means convenient and proper to the end, the amplification of their own jurisdiction?

If the judges of the Supreme Court are to have the final and exclusive authority to settle political questions, touching encroachments upon the reserved powers of the States, and all other political questions arising under the constitution, then, superadded to those qualifications which have heretofore been thought essential for a judge, the primary consideration in selecting him ought to be, in what political school has he been brought up? What are his political opinions on certain great contested political questions? To what political party does he belong? I respect a court of justice, but I abhor a party court. Let us not, by construction, transform a court of justice into a political council of state. Let us not transform the emblem of justice into the emblem of power. Let us not defile the sanctuary of justice with the passions of political parties contending for political powers.

If the Supreme Court is once acknowledged to be the ultimate tribunal for settling the boundaries of political power between the Federal Government and the State Governments, so as to bind the parties to the compact, then it will inevitably follow that the court will be the subject of political party strife. Reform in the court, by infusing a new spirit by other or additional judges, will become the subject of political party strife as much as reform in the

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executive administration. The majority of Congress and the Executive might at any time add to the bench of the Supreme Court a sufficient number of judges to carry an important question of political power. The British ministry advised the King to create a sufficient number of new peers to carry the reform bill. The power of a majority of Congress, with the aid of the President, to create new judges, for a special occasion, is as effectual as the power of the King to create new peers.

The principles of civil justice to be administered by the judicial tribunals are fixed, immutable, and eternal; they are so nearly assimilated in all civilized nations, that they may be made universal. But the notions of political justice, and balances of political power, are mutable and variant, differing, like the complexions, habits, education, and feelings of politicians.

If the Supreme Court is to be the sole and exclusive judge in the last resort, not only of judicial questions properly submitted to it by the forms of the constitution, but also of all questions touching the confines of political powers delegated and not delegated by the compact, then not only the legislative and executive departments of the Government hold their powers at the will of this court, but the concurrence of this court, with the other departments of the Federal Government, "in usurped powers, might subvert forever, and beyond the possible reach of any rightful remedy, the very constitution which all were instituted to preserve." If one of the parties is to be the sole and exclusive judge of the extent of the powers to him delegated, and of the concessions made by the other parties, then such party would have an unlimited and supreme authority over the other parties. It is not sufficient to discriminate in theory the several classes of power, and distribute them between the legislative, executive, and judicial departments; neither will it suffice to mark with precision the boundaries between the powers delegated to the Federal Government and those retained by the States, and trust to these parchment barriers for defence against the insatiable appetite and restless gnawings of power. Experience teaches that the efficacy of such paper barriers is too feeble to withstand the scorching desires of power, and that some more adequate defence is indispensable to secure the more feeble against the more powerful members of the Government.

The judicial department does not present the requisite security in matters of such transcendent and vital importance. The judges of the Supreme Court are too few in number. The permanent tenure by which their appointments are held, as well as their salaries and the mode of their appointment, destroys all sense of dependence on the States, and lifts them above the common burdens of the people; and, from the very nature of their callings, they see human nature in the worst light.

These are but too apt to infuse into their minds high-toned notions of a forcible consolidated Government, as necessary to "save the people from their worst enemy—themselves." Judges, in a long course of official duties, are familiarized to the sight of frauds, chicaneries, misdemeanors, and crimes; accustomed to exercise the force of the laws upon knavish wealth, naked poverty, and squalid vice; they are but too apt to confound the distinction between the judicial powers necessary to administer the laws, and political powers necessary to prescribe the laws; between the powers necessary to be granted to secure and protect against a violation of the laws by the vicious, and the powers necessary to be reserved to the good for protection and security against a violation and abuse of the political powers of the Government.

In England, from the time that Alfred hung the forty judges for illegal and corrupt practices, to the trial and conviction of Algernon Sidney for high treason, in writing that celebrated treatise on Government, (which, since his execution, has been published,) against the divine right of kings, and the doctrines of non-resistance and passive obedience, and from that time to this, the history of judicial power, as exercised, teaches this solemn truth—judges are but men, fallible men.

The history of judicial power in our own country and in our days, is not less impressive. But I forbear.

I respect an independent, upright judge. There is a generous confidence yielded by the moral sense of the community to such an officer. He is looked upon as the guardian of civil rights, the protector of life, liberty, and property. But the judge who exhibits himself as the zealot of a political party, freezes the generous confidence of the people, and turns it into fear and trembling.

Now, Mr. President, I wish it to be distinctly understood, that, whilst I concur in the doctrines of the Virginia and Kentucky resolutions of 1798, 1799, and 1800, I do not mean to approve the time, manner, and occasion in which South Carolina has applied them to practice. They are great conservative principles, not to be carried into practical effect but on great and pressing emergencies, when all other means of staying the hand of lawless aggression have been tried—unsuccessfully tried; and when war and revolution, in Governments differently organized from ours, would be justifiable in the eyes of liberal, enlightened, and impartial men. These great conservative powers and privileges, like all other powers, are liable to abuse in the hands of indiscreet and heated partisans. But yet, as some great conservative power is necessary to control the Government itself, to hold it in subjection to the constitution, to keep it within the limits of delegated power, I believe such regulating check more safely lodged in the whole body of a State—a whole nation of people; and there less liable to abuse than if

lodged in the hands of a few, and those few exposed to many temptations to sanction the usurpations, as participants in the power and emoluments of the usurpation.

SATURDAY, February 2.

Revenue Collection Bill—Powers of the Federal Judiciary.

The bill to provide further for the collection of the duties on imports again coming up—

Mr. FREELINGHUYSEN said: When the senate adjourned yesterday, I was referring to the acts of Congress organizing the judiciary of the United States, and thereby preserving, in full spirit and energy, the principles that the laws and the Constitution of the United States shall be considered the supreme law of the land. This provision of the constitution, and the legislation upon it, constitute an impregnable fortress, against which speculation and sophistry will spend their force in vain. There is no tyro in the schools, there is not an honest independent yeoman who tills our soil, who cannot comprehend the whole argument on this subject. Any man, when he finds that the laws of Congress are the supreme law of the land, and finds laws carrying out this provision, knows where sovereignty is placed by the constitution a thousand times better than all the abstract propositions in the world would teach him. The people are not to be speculated out of their senses, and of this we have had a recent and very satisfactory assurance. The principles of the proclamation were greeted with almost universal approbation throughout the land; no paper, except the Declaration of Independence, had ever been received by the people with more heartfelt satisfaction; none need be, except that sacred instrument; for in those bygone days, there were many discordant voices heard amid the general rejoicing. But now there is but one voice, from Georgia to Maine, with the exception of that which comes from a single quarter. Who can fail to bless God that the people are thus true to the principles of their fathers, and are thus ready to protect and maintain the work of their fathers? If nullification receive not its condemnation in our days, I know, said Mr. F., it will receive the execration of all posterity.

Why was it that, in our constitution, the State judiciary was required to regard the authority of the laws of Congress as supreme? Why was it that in the 25th section of the judiciary act, an appeal from the State to the federal courts is granted? The fathers of the constitution knew no other way to support the supremacy of the laws of Congress than this. They provided that all questions arising under the constitution should be referred to and decided by the judicial department of the Government. They with that temperate wisdom which characterizes all their acts, suffer the disputed questions to go from court to court. They try the judicial conscience of every court; and

if the State tribunal decides unconstitutionally, the Supreme Court of the United States has power to reverse their decision. No argument which he could urge would add to the weight which those wise provisions would have in settling this question. They prove the high regard which our fathers had for this principle of the constitution, and their extreme anxiety to preserve and perpetuate it.

As a matter of history, it would be interesting to look at the circumstances attending the passage of the judiciary bill. In what we sometimes call the popular branch of Congress, in the House of Representatives, it met with such unanimous support, that the yeas and nays were not called for when the question was taken. In the Senate, where the bill originated, fourteen voted in the affirmative, and six in the negative. Three of the negatives were from the South, and three from the North. Two of the Southern negatives were from the Senators from the State of Virginia. But he was persuaded that the opposition of Virginia to the bill did not arise from any objection to this mode of preserving the constitution and laws. Virginia opposed all the provisions of the judiciary system, as we organized it, from objections which she had to the form, not to the object of its establishment. That the Commonwealth of Virginia did not oppose the principle that the Supreme Court of the United States is the arbiter in the last resort, he would show, from a previous piece of history, which he took great satisfaction in bringing before the Senate. To go back to the transactions of former times, to contemplate those acts of our predecessors, which have illustrated their own and our fame, was always pleasing and profitable; and it was with great satisfaction that he could bring up, on this occasion, the voice of good old Virginia in favor of the constitution; and he hoped it would put down forever those speculations which would ruin the constitution, and defeat the hopes of the world. The opinion of Virginia, to which he should refer, was given at an interesting time. The State of Pennsylvania, one of the proudest States of the Union, (he meant no invidious distinctions, she was one of the largest, wealthiest, and most powerful of the States,) the State of Pennsylvania had determined, in the *Olmstead* case, to resist the decision of the United States court, and to resist it unto blood. The Legislature went so far as to pass laws to call out the militia to resist the federal process. The judiciary went on in its quiet steady way. Notice was given to the marshal and to the President, that the State of Pennsylvania would resist the process, but there was no flinching in that day. The marshal was ordered to execute the law and the decree of the court. An order was given to imprison the defendants. Even gallantry was overlooked, (for ladies were the defendants;) and, in a case where the life of the constitution was at hazard, they would not even stop for them, and the issue was about to be tried by arms.

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Pennsylvania, at this point, was patriotic and prudent enough to retire, and give up the contest. Notice was given to the marshal to make up the debt and costs, and the amount was forthwith paid. Pennsylvania would not, at the last pinch, encounter the constitution. Many patriots appeared then, and offered to devote themselves to the cause, and to die in the last ditch. The same language was used then, as we hear from South Carolina now. But Pennsylvania had too much patriotism to push her opposition to the extremity of war. She gave up the point, and proposed an amendment to the constitution, for the establishment of a tribunal to settle all disputes between the Government and the States. She took the advice of Virginia, and recorded her response as follows:

"Preamble and resolutions on the proposition of Pennsylvania to amend the constitution of the United States.

"The committee to whom was referred the communication of the Governor of Pennsylvania, covering certain resolutions of the Legislature of that State, proposing an amendment to the constitution of the United States, by the appointment of an impartial tribunal to decide disputes between the State and federal judiciary, have had the same under their consideration, and are of opinion that a tribunal is already provided by the constitution of the United States, to wit, the Supreme Court, more eminently qualified from their habits and duties, from the mode of their selection, and from the tenure of their offices, to decide the disputes aforesaid in an enlightened and impartial manner, than any other tribunal which could be erected.

"The members of the Supreme Court are selected from those in the United States, who are most celebrated for virtue and legal learning: not at the will of a single individual, but by the concurrent wishes of the President and Senate of the United States; they will therefore have no local prejudices and partialities.

"The duties they have to perform lead them necessarily to the most enlarged and accurate acquaintance with the jurisdiction of the federal and several State courts together, and with the admirable symmetry of our Government.

"The tenure of their offices enables them to pronounce the sound and correct opinions they may have formed, without fear, favor, or partiality.

"The amendment to the constitution proposed by Pennsylvania seems to be founded upon the idea that the Federal Judiciary will, from a lust of power, enlarge their jurisdiction, to the total annihilation of the jurisdiction of the State courts; that they will exercise their will instead of the law and the constitution.

"This argument, if it proves any thing, would operate more strongly against the tribunal proposed to be created, which promises so little, than against the Supreme Court, which for the reasons given before, had every thing connected with their appointment calculated to insure confidence. What security have we, were the proposed amendments adopted, that this tribunal would not substitute their will and their pleasure in the place of the law? The judiciary are the weakest of the three departments of Government, and least dangerous to the political

rights of the constitution. They hold neither the purse nor the sword, and even to enforce their own judgment and decrees must ultimately depend upon the Executive arm. Should the federal judiciary, however, unmindful of their weakness, unmindful of the duty which they owe to themselves and their country; become corrupt, and transcend the limits of their jurisdiction, would the proposed amendment oppose even a probable barrier in such an improbable state of things?

"The creation of a tribunal such as has been proposed by Pennsylvania, so far as we are enabled to form an idea of it from the description given in the resolutions of the Legislature of that State, would, in the opinion of your committee, tend rather to invite than prevent a collision between the federal and State courts. It might also become, in process of time, a serious and dangerous embarrassment to the operations of the General Government.

"Resolved, therefore, that the Legislature of this State do disapprove of the amendment to the constitution of the United States proposed by the Legislature of Pennsylvania.

"Resolved, also, That his excellency the Governor be and he is hereby requested to transmit forthwith a copy of the foregoing preamble and resolutions to each of the Senators and Representatives of this State in Congress, and to the Executive of the several States in the Union, with a request that the same may be laid before the Legislature thereof.

"January 23, 1810.—Agreed to, unanimously, by the House of Delegates.

"January 26, 1810.—Agreed to by the Senate, unanimously."

This doctrine is as sound as pure gold seven times tried. Here is the very issue which South Carolina seeks to try. Pennsylvania called on her militia to uphold her sovereignty, and in a well-advised hour retracted her appeal to force, and proposed an amendment to the constitution, for the purpose of effecting her object. But good old Virginia respected the wisdom of our fathers, and declared that the constitution which they had provided could not be bettered by amendments. She refused to sanction an amendment which would dispense with the judiciary of the United States. Now, Mr. President, in this view of the subject, what a most admirable system of Government is ours. It is not to be wondered at that tyrants and the friends of power all over the world look at it with envy and jealousy. We cannot but perceive that, by the General and State Governments, each acting in their respective spheres, the principles of liberty must ever be preserved. New York cannot infringe upon the rights of Pennsylvania, nor Pennsylvania upon the rights of Virginia. The States cannot come into conflict with each other, nor can the General Government interfere with the rights and jurisdiction of the several States. But as we have great interests in common, the wisdom of our predecessors provided a sovereignty, above that of the several States, to attend to the common interests. This constitution was watched over with sleepless vigilance, as he hoped it always would be, and effectually guarded against all

encroachments. What can the General Government do to prostrate the liberties of the States, when twenty-four of those States support it and continue its existence and power? Since he had had the honor of a seat here, he had often been sorry to hear the General Government gravely spoken of as an alien excrescence. Our own work, the dearly cherished constitution, bequeathed to us by our fathers, had been scouted at as an odious foreign importation; and the Supreme Court, which keeps in check the different powers of the State and Federal Governments, had been spoken of as a thing down below which the sovereign States ought not to submit to. He rejoiced that this subject was now fully before the people. He believed that the crisis had been brought to them in the benignity of Providence, that they might rally around the constitution, and that tribunal which preserves all the principles of the constitution in purity. How, Mr. President, could we take a single step in the improvement of our condition without this General Government? Have we not intrusted to it all the concerns of commerce, the collection of the revenue, the vast concerns of the public lands, our Indian relations, &c.? How can we take a single step to preserve our great common interests, if the State sovereignties can annul our acts at pleasure? Suppose a case of war waged by us, in defence of our national rights, against a foreign nation. If three or four ill-advised States can throw themselves on their sovereignty, refuse to take part in the war, and nullify the acts declaring it, our country, instead of being a name and a praise among nations, would become a name of reproach, and subject to the contempt of the whole civilized world. He would much rather go back to the old confederation, in which each State is bound, in honor, to pay its quota towards the public exigencies. Nothing can give us security for a single hour against State nullification.

He had said, with submission, that the Supreme Court was intended by the constitution to be the great arbiter in regard to questions within and without the powers conferred upon it. In answer to this, it was said, suppose the Supreme Court transcends its powers? He would reply, in the language of Virginia, that we had adopted the best system which we could devise. If it failed in practice, the failure would be owing to the imperfection of all human institutions. No prudent man will push such a supposition to its extremity, and upon the faith of it give up our constitution. Should it fail of its object, we shall have but to mourn over the frailty and insecurity of this as well as of all terrestrial things. What experience has justified the supposition that the authority given to the Supreme Court will be abused? For fifty years we have prospered with it; and the venerable and illustrious man who has given to it high renown in the world, still lives to give it his beneficent energies. The judiciary holds neither the purse nor the sword, and depends wholly

upon its moral power, and the aid of other departments of the Government, for the enforcement of its decrees. It is the great peace arbiter. Let us then cherish and support it. Let us select the best men to fill its seats, and we shall have no cause to distrust it. But what is done with the State courts? He put it to South Carolina to answer. She has a constitution and a judiciary. When her Legislature enacts an unconstitutional law, what is done by her citizens? Do some of them call a town meeting and nullify it? No; they put in the plea before the State court, that the law is unconstitutional, and the court decides the question. This had been done in his State a dozen times. The supposition of the Senator from Kentucky was the merest imagination that ever afflicted the human intellect. That Senator's imagination carried him to the extremity of fear. What fear? That Congress would break the constitution, by putting in operation a wicked law. The bill of abominations would come to the Senate, and they would join the other House in the conspiracy against the rights of the people and the States. Then it would go to the Supreme Court. And who were they? They were made, he says, by the Senate, and were impeachable only by the House of Representatives; and therefore they were all of a piece, and might conspire together to defeat the purposes of the constitution and the rights of the States. This general conspiracy draws into its vortex all the reserved rights of the people. Thus far his fears alarmed him. Was it wise in a grave nation—he spoke in the abstract—to indulge in such violent suppositions? Such imaginations would drive a man to shut himself in a cave, seclude himself from all associations with his kind, lest the first man whom he may happen to meet should contrive a plot against his life. Because the judiciary may turn traitors to the Government and the constitution, and the legislative department may support them in their treason, shall we have no Government? Shall we therefore unloose all the bonds of Government, and return to a state of anarchy? Because fathers may turn tyrants, and mothers prove monsters, shall we abolish those dear relations and extinguish those sacred charities which they enkindle and cherish? Shall we draw rules of civil and social conduct from such violent suppositions? After all, we must confide, to a greater or less extent, in our fellow-man; more or less we must trust to others every moment of our lives. Shall we then sit down in inglorious ease, merely because our confidence may be abused? Rather should we use the best means which our Maker has given us to plant such safeguards as we can around our constitution; and if we are not traitors to ourselves, if we dig not our own graves, we shall be free and prosperous.

But it is said, that the judiciary is not competent, from its organization, to settle political controversies. What is meant by political powers? Every power is political to some extent.

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Did Chief Justice Marshall mean to say, in the speech cited by the Senator from Kentucky, that the judiciary could not decide a question arising out of the tariff laws? Never. His head was too sound for that. Besides, a political speech is not the best authority which can be adduced for judicial opinions. He marvelled not a little when the Senator from Kentucky introduced it as authority. When he came to look at it, he found that it was a speech made in Congress, in high party times, upon a case which involved great political and party excitement at that day—the case of a British subject who was seized as a deserter, given up, and put to death. But he rejoiced to find that the illustrious individual who made the speech referred to was perfectly at home in discussing the subject, and that the views which he took of it displayed the soundness of his head and the purity of his heart. "To come within the description, (of the powers conferred upon the judiciary,) a question must," he says, "assume a legal form, for forensic litigation and judicial decision. There must be parties to come into court, who can be reached by its process and bound by its power; whose rights admit of ultimate decision by a tribunal to which they are bound to submit." The case must have a legal form, and parties, and must be submitted to the court; these are all the forms which are necessary to place it within the powers of the judiciary. When something is to be adjudicated, something to be given and taken away, then the judicial power may be exercised, though the case result from a treaty. In the dispute concerning the northwestern boundary, referred to by the Senator from Kentucky, there were no parties but the two States. But the case made by South Carolina has all the attributes which the doctrine laid down in the speech referred to requires.

The tariff law is individual in its effects, and makes parties by which the case can be submitted to the court. A merchant belonging to New York sojourns in Charleston, for commercial purposes. He imports goods from Great Britain. He is required to pay the duties on them. This makes a plain case of law, involving a personal claim. The merchant tells the collector that he cannot pay these duties. Why? Here is the law of the United States, says the collector, and I am bound to enforce it. That law has been nullified, replies the merchant; and here is the ordinance of nullification, passed by some citizens of this State who assembled the other day for that purpose. What will be the rejoinder of the officer? He will say, Sir, I act under the authority of the United States, and you must pay the duty. The merchant insists, and pleads in bar of the law the laws of South Carolina. Is there any political question here to which the jurisdiction of the Supreme Court does not extend? Where is the usurpation in this case? On the part of the United States law, or this ordinance?

I have done, continued Mr. F., with this part

of the case. For the purpose of keeping all power in check, the judiciary was established. The framers of the constitution hoped to obtain, through it, a peaceful mode for the adjustment of all constitutional questions. In a country of wider extent than all Europe, and embracing under one Government many distinct communities, they hoped to secure perpetual peace and tranquillity by this arbiter of peace. Compare the operation of this peaceful check with the resort to which Europe is accustomed for the preservation of the balance of power. Must we have the sword or the court as our arbiter? Europe has tried the sword, and has shed rivers of blood in the vain pursuit of the balance of power.

MONDAY, February 4.

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The Senate having again proceeded to consider the bill to provide further for the collection of the duties on imports—

Mr. BROWN, of North Carolina, rose. He did not believe, he said, that he should be able to say any thing to equal the high intellectual entertainment which the gentleman who preceded him in this discussion had furnished to the Senate. But he would endeavor to remunerate whatever attention the Senate might give to his plain, homely effort, by the brevity of his remarks. If he had consulted the admonitions of discretion rather than of duty, he should have been silent, nor have offered to oppose his views to those of gentlemen of such distinguished ability. But the bill before the Senate involved questions of such magnitude, that he could not content himself with a silent vote upon it. The subject was of high interest to the State which he had the honor, in part, to represent, both as a member of the common Union, and in reference to her peculiar position, bordering, as she does, upon the State out of whose legislation arose this question. This obligation of duty derived additional force from the resolutions of the State of North Carolina, instructing her Senators to exert their influence to obtain a "peaceable adjustment of this controversy," and to produce a restoration of harmony between the Federal Government and the State of South Carolina. While it always afforded him pleasure to comply with the requests of his constituents, in obeying their injunctions on this occasion, he followed also the dictates of his own judgment and ardent wishes. It was his earnest hope that this contest, which was now assuming an angry and threatening aspect, should be settled in a peaceable manner. He need not say that he disapproved of the course of South Carolina, or that his State disapproved of it. Her course, he thought, had been rash and uncalled for by the exigency of the times. She should have relied, as he did, upon a constitutional remedy; upon the returning sense of justice in the people of the Northern and

Eastern States; and upon the wisdom and patriotism assembled in the legislative halls of the country. But the State of South Carolina thought differently, and took redress into her own hands. She was responsible to herself for her course. It was not his business to sit in judgment upon her, but to express, on his own part, and that of his State, disapprobation of her course.

The bill, though proposing on its face to be general in its application, was manifestly intended to be applied to South Carolina alone. Though the name was not written under the picture, he who runs may easily read. What is the proper way of settling this question? What course is most likely to lead to a peaceable adjustment of it? This is the question before us. The Committee on the Judiciary must excuse him, if, notwithstanding the high respect he entertained for their talents, he should wholly dissent from the specific remedy which they propose. He did not believe that the bill by them presented to the Senate was calculated to carry out the glorious, the inestimable principle of our institutions, that our Government should be essentially pacific in its remedies. He believed that, in its consequences, it would be attended with violence, and perhaps lead to civil war. He objected to the provision which authorized the repulsion by force of any attempt to execute the laws of South Carolina in reference to the revenue. To that provision he mainly objected, but there were some other provisions of minor importance which did not meet his assent. If any one principle was better established than another, in reference to our institutions, it was that the military should be subordinate to the civil authority. If any one principle was sacred, it was this. It was one which no emergency justified us in departing from; one which constituted the very essence of a republican form of Government, and without which free institutions could not exist. When we establish the doctrine that military authority may step in to execute the law, before the judiciary has exerted its powers, then the essence and spirit of our institutions are essentially changed. It has been our boast that in cases where other nations resort to war, we resort to a peaceful mode of attaining a settlement of the question; and to the judicial tribunal is committed the administration of these peaceful measures. He did not at all object to the due administration and operation of the laws of the United States. He wished the laws to find support in the energy of the constitution. It was vain to say that coercive measures are necessary in this case; for there is an inherent energy in the constitution which will enable the laws to triumph without an appeal to force.

The Senator from Pennsylvania (Mr. WILKINS) asked us the other day, if we were unwilling that the powers proposed to be given to the Executive by the bill should be confided to the present President of the United States. But

that was not the question. He would say that the past course of the President had been such as to entitle him to unlimited confidence, and there was no individual to whom he would more willingly confide this power than to the President. But there was no man, however elevated in station and ennobled by virtue, however pure his integrity and honest his purposes, to whom he would give a power which was unwarranted by the constitution. We are told that a jealous watch over the repositories of power is the only way of preserving liberty. He could not believe for a moment, that, if this power were given to the President, he would abuse it. But it might, in worse times than these, and in worse hands than his, be abused to the destruction of our institutions. We may be told that the power will be limited as to continuance and application. But what does history teach us? That the fact of to-day becomes a precedent to-morrow. Our own history shows us instances of powers, some well established as constitutional, which the framers of the constitution and its early friends would have shrunk from with dread. The General Government has been gradually drawing to itself the exercise of doubtful powers. When told that they are not given by the constitution, they reply that they are justified by precedent.

The honorable gentleman from Pennsylvania, in the course of his remarks, spoke of the submissive manner in which that State would yield obedience to the most unjust and injurious legislation of Congress. The history of that State was illustrated by the virtues and patriotism of her citizens, but the Senator would pardon him if he should say that the State of Pennsylvania was not quite exempt from the faults which are imputed to the State of South Carolina. The course of Pennsylvania, in the famous *Olmstead* case, had some agency in bringing about the present state of things in South Carolina. Though South Carolina had not derived her impulse from that source, yet the doctrines once contended for by Pennsylvania were appealed to in justification of her present course. The opinions and principles of Pennsylvania in the *Olmstead* case had been cited in the discussions in South Carolina, as justifying her resort to self-redress. He did not stamp his approbation on them, nor on those of Carolina. [Mr. B. then read extracts from the report made in the House of Representatives of Pennsylvania, on the message of the Governor, relative to the *mandamus* of the Supreme Court of the United States, in the case of *Gideon Olmstead*, as follows:]

"That the subject referred to them has not failed to engage their most serious reflection. They have viewed it in every point of light in which it could be considered. It is by no means a matter of indifference. In whatever way the Legislature may decide, it will be in the highest degree important. We may purchase peace by a surrender of right, or exhibit to the present times, and to late posterity, an awful lesson in the conflicts to prevent it. It becomes a sacred duty we owe to our common country, to dis-

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card pusillanimity on the one hand, and rashness on the other. In either case, we shall furnish materials for history; and future times must judge of our wisdom or our weakness. Ancient history furnishes no parallel to the constitution of this united republic. And should this great experiment fail, vain may be every effort to establish rational liberty. The spirit of the times gives birth to jealousy of power; it is interwoven in our system; and is, perhaps, essential to perfect freedom and the rights of mankind. But this jealousy, urged to the extreme, may eventually destroy even liberty itself. As connected with the federal system, the State Governments, with their inherent rights, must at every hazard, be preserved entire; otherwise the General Government may assume a character never contemplated by its framers, which may change its whole nature."

"*Resolved*, That in a Government like that of the United States, where there are powers granted to the General Government, and rights reserved to the States, it is impossible, from the imperfection of language, so to define the limits of each, that difficulties should not sometimes arise from a collision of powers; and it is to be lamented that no provision is made in the constitution, for determining disputes between the General and State Governments, by an impartial tribunal, when such cases occur.

"*Resolved*, That from the construction the United States courts give to their powers, the harmony of the States, if they resist encroachments on their rights, will frequently be interrupted; and if, to prevent this evil, they should, on all occasions, yield to stretches of power, the reserved rights of the States will depend on the arbitrary power of the courts.

"*Resolved*, That, should the independence of the States, as secured by the Constitution, be destroyed, the liberties of the people, in so extensive a country, cannot long survive. To suffer the United States courts to decide on State rights, will, from a bias in favor of power, necessarily destroy the federal part of our Government; and whenever the Government of the United States becomes consolidated, we may learn from the history of nations, what will be the event."

Those papers show what were the doctrines of Pennsylvania at that time; and it is well known that she went on to carry those into practical operation. She called out her whole military power to resist the decree of the court, and steps were taken to bring her military force into actual service. He did not adduce this fact because he approved of the doctrines of Pennsylvania, for, in his opinion, she went too far. But he meant to show her rashness did not draw down upon her the power of the Union. The administration of that day had not recourse to military coercion. The decided stand which the State had taken was known to the Government and to Congress, but they did not consider that any coercive measure was necessary before the judicial tribunals had tried their remedy. No bill was introduced in Congress, no measures recommended by the President for meeting the measures of Pennsylvania with military force. They trusted to the force of our institutions, without other remedy, and those institutions triumphed.

Should not the recollection of this transaction inculcate upon Pennsylvania moderation, and unabated confidence in a peaceful remedy? The case addressed itself particularly to that State, and bound her to practise the same moderation towards Carolina which the Union practised towards her, when, in a moment of high excitement, she opposed herself to the laws of the Union. He would, in further support of his views, read from a speech delivered by a highly distinguished citizen of Pennsylvania, a passage which was fraught with just and liberal sentiments. [From the address delivered before the literary societies of Jefferson College, at the annual commencement in September, 1832, by the honorable W. WILKINS, he read the following passage:]

"If we start with horror from such frightful consequences, let our efforts be directed to avert the evil which brings them in its train. Ever keep in mind the spirit of compromise in which our Constitution had its origin. Instead of defiance and derision, let us adopt the tone of conciliation, and, where practicable, of concession. Instead of hunting up materials, from spiteful comparisons between different States or districts, let us remember only what is glorious in the history, or estimable in the character of each; adopting the happy quotation of Lord Chatham, when deprecating that stubborn and contemptuous defiance which led to the dismemberment of the British empire; let each State, in reference to every other,

'Be to her faults a little blind,
Be to her virtues very kind.'

In dwelling on the common efforts and the common sacrifices—on that precious fund of glorious recollections which two wars have accumulated for the whole country—there must be kindled a generous and sympathetic ardor which will prove the most powerful of centripetal forces. I agree, continued Mr. B., that the spirit of compromise and conciliation is the strongest bond which binds us together, and it is that tie which unites us, and not the strong arm of military power.

The gentleman from New Jersey, in the course of his remarks, said that the constitution was ratified by the people; that it was submitted to the States merely from convenience; and that the people had clothed the General Government with its powers. To that position he would not assent. It brings up the great question of consolidated powers. The establishment of this doctrine utterly annihilates the constitution as it was expounded by the most enlightened republicans of '98 and '99. If that doctrine had been constitutional, then it was only necessary that the constitution should be ratified by the majority of the people. The ceremony of submitting the instrument for the ratification of the States was an idle mockery, if the powers granted by the constitution were not granted by the sovereign States, but by the people in mass. He would refer to the history of the transaction. Eleven States had ratified the constitution, constituting an overwhelming majority of the peo-

ple; but still North Carolina refused to ratify it, and so did Rhode Island. As sovereign States, they refused their sanction to it. If the doctrine of the Senator from New Jersey was correct, North Carolina was, at this time, guilty of resistance to the constitution and laws. Little Rhode Island was guilty of opposition to the supreme law of the land, for she did not come into the Union for some time after North Carolina. That single circumstance shed much light on this subject. The State of Rhode Island, a small State, but little larger in population than some of the counties in New York, yet exercising on that occasion a sovereignty co-extensive with that of New York, Pennsylvania, or any other State in the Union. Another fact repudiates the doctrine here advanced, that the constitution is the work of the people. It is only necessary for a majority of the States, constituting one-fourth of the people, to refuse to elect Senators, and an end is put at once to the General Government. This consideration puts to flight all the arguments urged to prove that this is a consolidated Government. He was aware that it had been said, in reply to this remark, the meaning of the quorum, which was necessary to enable the Senate to transact business, would in this case be construed to mean a majority of the States actually represented; and the States not represented would not be considered as belonging to the Union. But this objection would drive gentlemen to an admission of the rights of secession—a doctrine which, perhaps, they would not be willing to allow; for if a State has not the right of secession, no act that she herself may do, or omit to do, can place her out of the Union.

But if the origin and nature of our government did not put this idea to rest, the character and extent of our country would have done so. The people of so wide and various a surface would never have delegated the powers to make a consolidated Government. They knew that no such Government could exist here. What says Mr. Hamilton in the *Federalist*? What says Mr. Madison on the subject? Why, that to adopt a consolidated Government would be destroying the principles of the revolution, and would inevitably lead to monarchy. And why? Because whenever a majority, having adverse interests to the minority, should combine to oppress the smaller portion, the latter would have to intrench themselves behind their reserved rights, and make resistance to the oppression, or be annihilated.

What would be the consequence of this resistance? So soon as the minority discovered that the majority were forcing interests adverse to their own, and they began to resist the encroachment, the military arm of the Government would immediately be strengthened, and there would be but one step beyond—that of a monarchy.

The gentleman from New Jersey had said that it was the aspiring pride of the State sovereignties which had led to this state of things.

The aspiring pride of the State sovereignties! It was an avowal of doctrines such as these which was so repugnant to his feelings. It was well known that in the origin of the Government the country was divided into two great parties. One of these parties contended in favor of the reserved rights of the States, and to restricted powers of the General Government. The other was for conferring on the General Government unlimited powers. This last was called the federal party. With a loud note they proclaimed the necessity of investing the General Government with a vast range of authority. Some of them even went so far as to propose a form of Government which would have been substantially a monarchy. Mr. Hamilton, in the convention which framed the federal constitution, had advocated the appointment of a chief Executive Magistrate, and a Senate during good behavior, which was equivalent to appointing them for life. Such, said Mr. B., is my remembrance of the subject. The history of these times will show the fact. The doctrine of State rights, and of the reserved powers of the State sovereignties, was abhorrent to the leaders of that party. They did not, however, succeed in carrying their enlarged views into effect. He did not intend to characterize the whole of that party as entertaining these views. But such were the sentiments of some of its leaders. Nor did he intend to impugn the motives of these gentlemen, though he doubted not they were actuated by feelings as patriotic as those which actuated any men. But it was well known that the high-toned part of the federal party did doubt the competency of the people to self-government. They were for arming the federal power with all authority, in order, as they said, to save the people from their own worst enemies. There were some of the prominent men of the country who did not subscribe to that principle, but who did believe that the people were competent to self-government; that they were fully able to go through the work which they had begun, and to carry out that beautiful theory of republican rule. Happily for the country, they prevailed. Happily for the country, the principle was established, that the States were sovereign and independent, as to all powers which they had not delegated to the General Government. And some of the republican party went so far as to believe that the States themselves had the right, in the last resort, to determine for themselves what were the precise powers which they had delegated. He was well aware that the doctrine of nullification, as it now prevailed in South Carolina, was about to be made use of, not against that doctrine alone, which he did not rise up to defend, but for the purpose of founding upon it a war of extermination. It was against that that he desired to enter his protest; under this masked battery, he saw that it was intended to fire upon the rights of the States. Gentlemen held up the flag of nullification, rang all the changes upon the word, sounded the tocsin of alarm

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throughout the country, and presented the whole matter in a light the most unfavorable to South Carolina, in order to justify to the other States the war which they were disposed to wage. It was a war, too, which would admit of no neutrals. The gentlemen who have taken the strong ground, like Napoleon, have thrown out the declaration that there must be no neutrals.

I take my stand, said Mr. B., on the reserved rights of the States. I repudiate the doctrine of nullification. I repudiate also the high-toned doctrine of the federal party. I believe it is to that high-toned doctrine that we are to attribute nullification. I believe that doctrine produced it; is the parent of it. It is by an improper pressure of the Federal Government on the rights of the States, and by exercising doubtful powers, that the State of South Carolina has been thrown into this position. He did not mean to justify the course of that State. But whether she was right or whether she was wrong, this furnished her with something like an excuse for her conduct. He believed that the principle was as susceptible of demonstration as any principle of mathematics; that almost any attitude of resistance against the Federal Government, in which States had been seen, arose out of the unwarrantable exercise of doubtful powers by the United States. They had always been inclined to tranquillity. They had always been disposed to make a child's bargain with the United States: If you will let us alone, we will let you alone. They would never have admitted the idea of rising in opposition to the United States, unless there had been some exciting cause. The whole history of the world proves this fact. There is no precedent where a people have arrayed themselves against a supreme power without any occasion, because the great body of mankind has always been found more ready to acquiesce in oppression than to resist it. He desired gentlemen to produce a single precedent where a people whose pursuits are peaceful and agricultural for the most part, were willing to cast away "the piping times of peace," and for the mere love of glory to rush into a conflict against power, and that power twenty times larger than itself. Could gentlemen produce an instance where any State, without provocation, had ever offered resistance to the General Government? He had thus, he believed, established the great principle that the States themselves were always willing to be quiet, and that most of the opposition which had been manifested against the General Government had arisen from the exercise of doubtful power by that Government, by which had been provoked that State pride which the gentleman from New Jersey so earnestly denounced. Without that pride this republic would now have been as nothing. To justify this principle, that most of the controversies which had arisen, have arisen from the circumstance of the Federal Government taking their debatable ground, he would read an authority

which would meet with the approbation of all pure democrats. It was the authority of George Clinton, a name deserving of all respect; *clarum et venerabile nomen*; a man distinguished for his steady adherence to democratic doctrines. When he was President of the Senate in 1810, he gave his casting vote against the bank. It was on that occasion that he used the following language:

"In the course of a long life I have found that Government is not to be strengthened by the assumption of doubtful powers, but by a wise and energetic execution of those which are incontestable; the former never fails to produce suspicion and distrust, whilst the latter inspires respect and confidence.

"If, however, after a fair experiment, the powers vested in the General Government shall be found incompetent to the attainment of the objects for which it was instituted, the constitution happily furnishes the means for remedying the evil by amendment; and I have no doubt that, in such event, on an appeal to the patriotism and good sense of the community, it will be readily applied."

What was the result of his experience? That the Government was never strengthened by the exercise of doubtful powers. A doctrine which still prevails among the distinguished leaders of the party in the State of New York, and which they can never consent to surrender, unless they should become recreant to the great principles which they have always maintained. But he would not only quote authority, but he would also quote facts. What was it which excited the first controversy between a State and the United States; a conflict which threatened to bring ruin on the country, and which was designated the reign of terror by the republican party, as it well deserved to be characterized? He referred to the alien and sedition law, which, by usurping the power of trampling into dust the liberty of speech, the freedom of the press, and all the rights and securities which the people had enjoyed, called forth a movement the most glorious to the country that could be imagined. It drew forth the celebrated report of Mr. Madison, a report to the merits of which he was totally inadequate to do justice. This was a movement of the aspiring pride of the State sovereignties, which, instead of destroying the Union, brought back the Government to its first principles. So much, then, for State pride. If that State pride had preserved the constitution at its last gasp, it ought not to have called down upon it such unqualified reprobation. The doctrines of Virginia saved the confederacy in that dangerous crisis. They produced a civil revolution, which brought into power the wisest and the ablest statesman who ever lived in any country. This was one of the benefits which had resulted from State pride.

In the case of the establishment of the United States Bank there arose also a conflict of powers. There were many who believed that it was an assumption of power not delegated to the Federal Government. Ohio was one of the States which

held that opinion. This matter also was finally adjusted. What was the next question which agitated the country? It was the exercise of the power of internal improvement. That was not an expressed power granted to the General Government. It was among the doubtful powers, and the right to exercise it was denied by several of the States. It was denied by the State of New Hampshire, and by a very respectable portion of the State of New York, which held that it was one of the doubtful powers. The right of appropriating money to all or any objects was another of the doubtful powers. The State of New York, and some other of the States, disputed the right of the Federal Government to appropriate money except for the purposes pointed out by the constitution. Such are the contentions which had arisen from the exercise of doubtful powers by the Federal Government.

The case of Georgia was the next to which he would call the attention of the Senate. The usurped powers which the United States attempted to exercise over her provoked the pride of that State, as well it might. When the Government of the United States undertook to tell her that she could not extend her jurisdiction over the whole of her own soil, she might well resist. This contention, arising also from the exercise of doubtful powers by the United States, was at one moment pregnant with awful menace.

The last, but not the least, of the conflicts which have arisen from the exercise of doubtful powers by the General Government, was in relation to the protective system. Here the Government of the United States had assumed the right of unlimited taxation, of taxing one portion of the community for the benefit of another and a more favored portion. He hoped that he had thus succeeded in establishing the position that most of the controversies which had arisen had their origin in the exercise of doubtful powers by the Federal Government, operating against those rights which the States deem necessary for the preservation of their existence in a sovereign capacity.

The gentleman from New Jersey had held up the constitution in his hand, and, with all that patriotic ardor for which he was distinguished, said he should cling to the bond. I, too, said Mr. B., will cling to the bond; and while I will willingly allow the gentleman to take full usage, I hope that, in taking the pound of flesh, he will not spill one drop of blood. The gentleman had also said, that old Rome never submitted to the dictation of any of her provinces. This was a luminous commentary on the rest of his remarks. No wonder that he had spoken disparagingly of the States, when he compared them to Roman provinces. This sufficiently accounted for the consolidated principles of the gentleman from New Jersey. But old Rome was always ready to extend justice to her provinces. Whenever the deputies of a province came before her Senate, she did not fear to do them justice. We may all becomingly fear to

do wrong, but we should not fear to do justice.

The gentleman from New Jersey had said he would not strike a sister State, but would retire to the wall. He, Mr. B., admired this principle, which so admirably accorded with what he knew of the private worth of the gentleman from New Jersey. But when the gentleman went on to say that the dignity of the country required that the laws should be executed, he could not avoid asking him in what that dignity consisted? Did it consist in calling out the military power, in bringing citizen into conflict with citizen, and deluging the country with the blood of her children? If that was the meaning of the dignity of the country, he, Mr. B., prayed Heaven to deliver him from such dignity. He considered that the dignity and honor of the country would be best promoted and established by doing justice, and carrying out peacefully and efficiently the principles of the constitution. This would be worth all false glory, all the national glory of which we have heard so much. It would eclipse all the glory of imperial Rome, and of imperial France, which was nothing to the glory of a just, equal, and benignant dispensation of the laws.

One of the reasons which had mainly induced him to rise was, to show that every peaceful remedy should be resorted to. The constitution was framed in a spirit of mutual deference. It was ratified in that same spirit of deference, and so it ought to be administered. The whole history of our country conforms to that principle; a mutual deference to all great interests of the country. The practice of the Government has been invariably marked with the spirit of conciliation.

The State of Kentucky, in 1794, was dissatisfied with the Government of the United States, because the free navigation of the Mississippi had not been secured. The Legislature of that State made a strong remonstrance on the subject to the General Government, claiming that free navigation as their right. They asserted that God and nature had given them this right; and they menaced a withdrawal from the Union if it was not obtained for them. What was the course of Washington? What was the course of the American Congress on this occasion? They did not assume the ground that they would not legislate while this menace was held over them. Yet no one could doubt the courage of Washington. No one could doubt that he was not prepared for every emergency. He said that the Government had been established in a spirit of compromise, and he recommended that a respectful reply be given to the State. He laid before the Legislature the facts in the case, and the free navigation of the Mississippi was obtained.

There was also another case, which was the assumption of the State debts. At the close of the war of the revolution, besides the national debt, each State had contracted its debt; and it was demanded by the Eastern States that the General Government should assume the pay-

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ment of these debts of the States. Such was the dissatisfaction which had resulted from Congress delaying the payment of these debts for five years, that a dismemberment of the Union was expected. In making this reference, he had no intention to cast an imputation on the States, but merely to state facts. The General Government ultimately assumed these debts. Suppose that, instead of taking this course, the General Government had acted on the idea thrown out by the gentleman from New Jersey, that the pride of the State sovereignties ought to be checked; we should not, said Mr. B., be at this moment engaging in this discussion, and enjoying the privilege to which this floor entitles us.

The next instance was the repeal of the embargo law in 1807. This was a measure of Mr. Jefferson, and one to which he was much attached. But when he saw that, by the continuance of this embargo, the Union was likely to be dismembered, did he say that the law must be enforced at all hazards? No such thing. Acting on the conviction that this is a Government of compromise, he repealed the embargo. In his works published since his death, it is made apparent that this was a very favorite measure with him. Yet on the approach of so dangerous a crisis, he hesitated not to abandon and repeal it.

This is another instance of concession on the part of the General Government to States, which resisted the exercise of doubtful powers.

Mr. B. said, as he had stated his objections to the course which the honorable Judiciary Committee had advised or recommended to the Senate to adopt, and deeming it not calculated, as honorable gentlemen had observed, to preserve the Union, but, on the contrary, calculated, if carried into practical operation, to destroy this glorious Union, it was proper that he should state what he thought would best meet the present crisis. He considered the true remedy a peaceful remedy, that of conciliation, according alike with the genius of the constitution and the practice of the Government. The revenue should be reduced to the wants of the Government; and the oppression which the Southern people labored under, in consequence of the tariff system, ought to be removed. If gentlemen wished to preserve the Union, the country should be appeased. This appeared to him to be an infallible remedy. The one, however, which the committee had prescribed, might be fraught with some danger. He was aware that there was a set of politicians, who thought this the favorable moment to try the strength of the Union, and that Government ought not to concede one particle of the protective system. Can it be possible, at this day, (said Mr. B.,) that any individual would wish to jeopardize the peace and harmony of twelve or thirteen millions of people, not only the peace of a whole people, but to retard the progress of free Governments throughout the world by an experiment of that kind, to try the strength

of the Union, and whether it can survive the use of the military power? He hoped not. He trusted that our republic would be hazarded by no such speculative experiment.

It is argued, continued Mr. B., that the State of South Carolina having placed herself in this attitude of defence, Congress ought not to legislate on the subject, as had been said in some of the newspapers, while the sword is brandishing over our heads. This is not meeting the question; it is not the true question; it is a question of a very different character. Are the people of South Carolina alone concerned in this matter? Is not a vast portion of the American people concerned in it? Are not the whole of the Southern States interested in this subject? It is not only the Southern States, the State of New Hampshire, the State of Maine, and a portion of the people of New York, but a large and respectable number of the States in the Southwest, which consider the tariff system unjust and repugnant to the principles of the constitution, and that we have no right to keep it up. It is argued that justice should not be done to South Carolina, because she has assumed a menacing attitude. This is not a proper view; it is not just to the other States. Is it any reason, because South Carolina has acted imprudently, that she should not receive justice? If she has forfeited any claim to the consideration of the General Government, ought the other States to incur the forfeiture? Nothing can be more erroneous, nothing more absurd, nothing, I will say, more tyrannical, than to oppress all the Southern States, because South Carolina has acted rashly. I do not, said Mr. B., argue this question as a Southern question. Thank God, in the exercise of my legislative rights and duties here, I can look beyond the Potomac. Thank God, I have a feeling which is not confined to the geographical limits of any portion of the United States. I can look and judge of my countrymen north as well as south of the Potomac; and I wish it to be distinctly understood, that what I now say respecting South Carolina, I deem applicable to every member of this confederacy. To no one of these States would I arrogantly say, I will not do justice, until you come on your knees before me.

I do hope, if I have any patriotism, it is not that narrow contracted patriotism which is confined to geographical limits. I trust it is that patriotism which looks abroad over the Union, and embraces every portion of my fellow-citizens. And so help me God, if my constituents were this day to demand that I should perpetrate an act of injustice against any member of this confederacy, that I should do an act in behalf of North Carolina which would trench upon the rights of Maine or of Massachusetts, or Pennsylvania, which I believed destructive of their constitutional rights, so help me God I would resign my seat, and retire to my home, rather than jeopard the peace of this Republic, this glorious experiment of a free Government, by taking what justly belongs to Maine, and

unjustly to bestow it on North Carolina; believing that a man presents a more truly dignified attitude who refuses to do an unjust act, than he who perseveres in injustice.

But what are we now called upon to do? We are called upon imminently to jeopard the public peace, by a novel and dangerous experiment; to enforce a law which not only a large portion of the American people believe unconstitutional, but which I verily believe, if the question were submitted to their individual opinion this day, they would repudiate and require to be rejected. We are called upon to enforce a tariff law, which I believe the majority of the people of the United States desire to have amended or modified; and the modification of which is fortified likewise by the recommendation of the Chief Magistrate.

And before I proceed further, let me explain myself on this point. I do not take the ground, and I will not take it, and I wish to be distinctly understood with respect to this matter, that a law which is tainted with injustice should not be put in force. I take the ground that no law oppressive in its character should be executed by interposition of military power, until every pacific measure which can be devised shall have been resorted to without the desired result. The remedy for evils of the greatest magnitude should be sought for in the peaceful tribunals of this country, according to the great principles handed down to us by the English whigs, and which we have infused into the spirit of our constitution and government.

If, on a failure of all these means, it shall be found necessary to use force to execute the laws, let it be used. I am not prepared to say that the emergency cannot arise; but I do say, that before a law of this kind is to be executed, before the peace of the Union is to be disturbed, there ought to be a reference to the justice, to the wisdom of Congress, to weigh, to examine the provisions of that law, and solemnly to pause and reflect before proceeding to put it in force by military power.

I beg leave, said Mr. B., to advert to what the President of the United States has said in his message to Congress, and I do it because this is the first remedy which the President recommended to Congress at the opening of the present session. I cannot doubt, that if the Executive wishes were consulted, he would, and decidedly, give the preference to a peaceful settlement of the difficulties by Congress. I do not mean to say that his preference should influence our legislation, but it ought to have weight with us.

Speaking of the extinguishment of the public debt, the President goes on to remark:

"The final removal of this great burden from our resources affords the means of further provisions for all the objects of general welfare and public defence which the constitution authorizes, and presents the occasion for such further reduction of the revenue as may not be required for them. From the report of the Secretary of the Treasury, it will

be seen that after the present year, such a reduction may be made to a considerable extent; and the subject is earnestly recommended to the consideration of Congress, in the hope that the combined wisdom of the representatives of the people will devise such means of effecting that salutary object, as may remove those burdens which shall be found to fall unequally upon any, and as may promote all the great interests of the community."

Again, in another part of the message, the President remarks:

"That manufactures adequate to the supply of our domestic consumption would, in the abstract, be beneficial to our country, there is no reason to doubt; and to effect their establishment, there is perhaps no American citizen who would not for a while be willing to pay a higher price for them. But for this purpose, it is presumed that a tariff of high duties, designed for perpetual protection, has entered into the minds of but few of our statesmen. The most they have anticipated is a temporary, and generally incidental protection, which they maintain has the effect to reduce the price, by domestic competition, below that of the foreign article. Experience, however, our best guide on this as on other subjects, makes it doubtful whether the advantages of this system are not counterbalanced by many evils, and whether it does not tend to beget in the minds of a large portion of our countrymen a spirit of discontent and jealousy dangerous to the stability of the Union."

These are the sentiments of the President regarding the law which we are now called on to adopt extraordinary means of carrying into execution.

As I consider this is a most important point, as I consider it the true means of removing the difficulty now involved in this question, I have not only adverted to the annual message of the President as showing the views of the administration and their remedy for the difficulties in the South, but I would now beg leave to read from the annual report of the Secretary of the Treasury.

[Here Mr. B. read an extract from the annual report of the Secretary of the Treasury on the subject of the reduction of the duties.]

Thus we have the direct suggestion of the present administration, that this is the most appropriate remedy. It is the one which was first suggested at the opening of the session, and I believe it is calculated to achieve all the great objects so much to be desired, all which it is necessary to achieve, and that without endangering the republic.

What is the extraordinary spectacle, I would remark, which the American republic now exhibits to the world? A republic which has heretofore boasted of its freedom—a republic which has heretofore pursued the "even and peaceful tenor of its way"—a republic which had been found competent to all the legitimate purposes of Government without slaughtering its citizens, and which, with very few exceptions, has gone on peaceably for fifty years. We present the extraordinary spectacle of calling on the administration and the Executive

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branch of the Government to enforce a law against a portion of our fellow-citizens, to compel them to contribute so much money to the revenue, which it is acknowledged is six millions annually more than is requisite for the wants of the General Government. A removal of that burden would remove all difficulty with the State of South Carolina. Even a partial removal of it, a mitigation of it, would make the tariff system more acceptable to the people, without a total abandonment of the principles. I speak in reference to the views and prevailing sentiments of that portion of the people I represent.

Sir, it does appear to me a powerful consideration that we are almost on the eve of a civil war; and for what? To enforce a law for the collection of revenue, when it is admitted by the Secretary of the Treasury, that there are at present six millions of dollars more than is wanted for the common purposes of the Government. Is this calculated to elevate us in the eyes of the nations of Europe? Is this calculated to cheer the hopes of those people who have been long struggling for their rights? Permit me to say that I think it will somewhat weaken the force of our republican experiment; yet, I believe that our Government is capable of achieving all the great objects for which it was designed, and settling this matter.

If in the revolutionary contest, when the blood and treasure of this country were profusely poured forth to establish the rights and liberties of mankind, to give self-government and to abolish unjust taxation, any one of our ancestors who were engaged in this glorious struggle had predicted that in less than half a century afterwards we should be engaged in the consideration of a bill to compel a portion of the people, at the point of the bayonet, to pay taxes when the Government had six millions of dollars more than it needed, they would not have believed him; credulity itself at that time would not have believed such a prediction. If they could have credited the story, it would have enervated the arm which struck for liberty, would have damped the bosom which glowed with patriotism. But what has been the practice of our Government heretofore? I beg leave to recur to another case distinguished in the history of our Government, and which I overlooked at the time I was remarking on the various instances of forbearance shown by our Government. In the late war, when a large majority of the people of the United States believed the pride of the country to have been wounded, when the constituted authorities of the land believed the national honor to have been trampled upon by the British Government, and considered it the sacred duty of all to assist them in resenting the insult, we found many on that occasion—yes, even pending the gloomiest period of the war—resisting every bill which went to give the Government of the United States men and means to prosecute that war. They resisted it on the ground that peace

might be obtained, and, I believe, because they deemed the war to be unjust, and while our villages were smoking and our country invaded by a large body of hostile troops.

We find at that moment a large body of men in Congress, whose patriotism I do not call in question—far be it from me to do so—a powerful, talented, and respectable body of men, even at the darkest periods of that war, voting against giving men and money to carry on the war. Great Britain had trampled on our commercial rights, had insulted us on the high seas for six years before war was declared. Notwithstanding all this, we found a powerful body who said that no army or money ought to be voted to the Government. Now, if that spirit of forbearance, great as it was, could be shown to an enemy whose cry was, *Delenda est Carthago*—if that spirit could be exercised *bello flagrante*—certainly some little patience is due to our brethren of the South. Surely some forbearance ought to be shown to our countrymen. If there were many at that time who thought the sword should not be unsheathed against those who would trample us under foot, is it to be supposed that we are now to plunge it into our fellow-citizens without some little examination into their cause?

I wish to be distinctly understood on one point. I do not intend to justify South Carolina; I am not her advocate, but she has a right to have justice done her. I do believe, however, that this question may be settled; and that by acting in a spirit of conciliation—a spirit not only due to her, but the vast portions of the North and South—the question might be put at rest. As regards the union of these States, there is not a member in the Senate, and I trust I shall not be considered egotistical when I say that there is not, in the whole Union, one in soul and heart more deeply devoted to it than my humble self. I believe that all the advantages of liberty, and of a free government, are at issue in this matter; and it is for that reason I urge a pacific course. Even the Grenvilles and the Norths, arrogant as they were, even they brought forward their measures; even they repealed some of their odious laws to satisfy the desires of the colonies. And shall it be said, there is now a spirit more inexorable, more inaccessible to the voice of justice, than that which prevailed under the British monarchy. If so, the blood of those who achieved the revolution was shed in vain, and the hopes of the friends of free government are forever put at rest. If that inexorable principle, that there is to be no regard paid to the feelings and wishes of the minority, he would say that this would change the whole principle of our federal compact, depriving it of all its republican and benignant features, and converting the federal into a consolidated Government.

In every portion of the Union there is a set of great primary interests. He wished to be distinctly understood on this point. He did not mean to say that the Government of the United

States should yield to every rash requirement of a State; far from it; but he did intend to say, that whenever any of those great primary and leading interests made just remonstrance against any obvious oppression, it was our duty, in the true federative spirit of our Government, to forbear; otherwise, the Government must effectually change its character. The West has her primary interests and sensibilities in reference to the great land question, and he (Mr. B.) would always be disposed to do ample justice to her as well as to every other section of this country. He would not feel power and forget right. New York has great interests in a commercial and manufacturing way; he, therefore, would do nothing that would trample them down. He would let them be free as they are, and give them all the privileges they require. With regard to the manufacturing interests of the country, he believed that the constitution did not tax the interests of one portion of the people to benefit another. He would bear and forbear. And, as to a specific measure for the reduction of the revenue, he declared that he was not one of those who would give a deadly blow to the manufacturing interests, by a thorough and too rapid reduction to the revenue point. He would do it gradually, in that spirit of forbearance which is due to the whole Union. Having glanced at the peculiar interests of the West and North, he would now advert to those of the Southern States. Their interests consist in producing as much as possible, selling at the highest prices, and buying as low as possible. But that natural course of things had been interrupted by the Government of the United States for many years past. But he did not subscribe to that doctrine which is maintained by some, that there are not essential interests common to a large portion of the United States. He believed every section of the Union, North, South, West, and East, were inseparably connected. There was no such thing as an adverse interest. It was true that an artificial state of things had grown up.

There was no difference between the great natural interests which God and nature had given us; if there was any difference, it arose from a dread of unjust legislation. Unjust legislation had produced it, and not the diversity of soil, habits, and pursuits. The true doctrine was, to extend equal protection to all in their various habits and pursuits, and leave the path free for a generous and beneficial competition of all.

Proud as he was of the achievements which had been performed under the star-spangled banner; proud as he was of the stars and stripes which have fluttered in every sea and every clime; anxious as he was for the glory of the country; yet God forbid that those stripes and stars, which had heretofore been the rallying point of heroism, should now float over the mangled corpses of our bleeding countrymen. God forbid that our country

should undergo this sad and disastrous revolution, for he believed, whenever that should take place, not only the liberties of this country, but the best and brightest hopes of the civilized world, would be destroyed forever.

Mr. FEELINGHUYSEN said, that he asked the indulgence of the Senate to say a word, to correct some misapprehensions of the Senator from North Carolina, (Mr. Brown.) Sir, said Mr. F., I must have been peculiarly unhappy in stating my views, when the Senator understands me to have compared our Government with the Roman provinces. So far from this, I did, in very explicit terms, refer to Rome by way of grateful contrast, not of parallel; and urged, that it was because we were not conquered provinces, but a Union of free and co-equal States; that it was because ours was a peace and not a war spirit, that I would retreat from a custom-house on land to a custom-house on the water; that from a real tenderness of shedding a brother's blood, I would go back to the very wall and never strike, until forbearance should itself become treason.

Again, sir, I was quite as unfortunate with the honorable Senator, when he ascribes to me the notion that our constitution was the production of the people in the aggregate. I too well knew the fact to be otherwise, to contend for such an absurdity. In adopting the constitution, it was insisted that the people acted in separate communities, and for the palpable reason that they existed in separate communities. But, sir, as matter of argument, I endeavored to show, that so far as concerned the character of the instrument, the extent of its powers, or the nature of the Government created by it, it was altogether immaterial whether the popular will was ascertained by distinct communities, or by a reference to some aggregate expression of that will. That, even granting the largest demands of the gentlemen who press the pretensions of State sovereignty, it would not in any measure impair the strength of the proposition that maintains the supreme authority of the General Government, by the nature of the powers contained in the grant. That, in either view of the subject, we must still turn to the constitution as the best expounder of itself; and if the delegation has there been made, why, sir, the character of the party to it cannot affect the grant. After all our speculations, we are constrained in the end to inquire what are the attributes with which the constitution invests the departments of the Government.

TUESDAY, February 5.

The Revenue Collection Bill.

The Senate then resumed the consideration of the bill further to provide for the collection of the duties on imports.

Mr. HOLMES said he would come to the question in controversy, which he considered to be this, and plainly this: In the conflict of power

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between the United States and any single State, who is the final and effectual umpire? What authority can decide when these disagree, and make its decision effectual? Had he stated the question fairly? Yes, he said, that question must come, and there was no going between it; no intermediate course by which it could be escaped. The constitution has established no umpire for such a case; and when the conflict comes, the question must be decided, who is the final power to judge it? My ground is, then, said Mr. H., that this power must of necessity be vested in the Government of the United States; not in the Executive, but in the whole Government; and that it must have the power to execute its decisions, or else it is a nullity. How then did the case now stand? The power of the Government of the United States to lay imposts, it was well known, was an exclusive power. The States were prohibited the exercise of it without the assent of Congress. If the power exists at all, it is exclusive in the Government of the United States. Now, he asked, the power being granted to the United States and prohibited to the States, can the States control the exercise of it? Mr. H. went on to argue that it could not be a concurrent power. Nor could it be an alternate power, that may be exercised either by the General or the State Governments. Suppose, he said, that the United States were to arrest a man for treason, convict and hang him for resisting the laws, it would be a very useless thing for a State Government to take up the case, and determine to un-hang the man; at least if they did, it would be of very little use to the dead man. The power, being in the Government of the United States, must be an exclusive power, the exercise of which no State had a right to obstruct. Now, said Mr. H., comes the issue. The Congress of the United States have passed certain revenue laws; they have been acted upon, adjudged to be constitutional, and have been executed by the Executive. South Carolina says they are unconstitutional, and has passed laws intended to repeal them or make them inoperative within her limits. The question, then, has arisen, shall the laws of South Carolina succeed, or those of the United States?

Passing by, for the present, the doctrine of peaceable nullification of the laws, Mr. H. said he would see if he could not understand some of the doctrines which had been advanced in regard to social and political compacts. If he understood gentlemen their meaning was that a social compact is one which may be enforced; a political compact one which may or may not be enforced. To be a little more explicit, he must go back to his schoolboy days for an analogous distinction—that between perfect and imperfect obligations. Those who have read Vattel and Paley know that a perfect obligation must be enforced, and an imperfect obligation may or may not be performed, at

pleasure. The only question to be determined is, whether the Constitution of the United States be the one or the other of these. I insist, said Mr. H., upon its obligatory character, and its power of enforcing its own authority; that it is a perfect compact, a social compact as gentlemen call it. My syllogism, then, is this: that a perfect obligation may be enforced in the manner prescribed in the compact; that the United States constitution is a perfect obligation; and that it may, therefore, be enforced in the manner prescribed in the compact. If I do not prove all this, sir, then my doctrine must fall to the ground.

Now, sir, here is a case. The United States passed certain revenue laws, which the State of South Carolina annuls. If the United States have the power to pass the revenue laws, the nullifying laws are nullified. The minor, in this proposition, depends upon the facts and principles out of which the constitution arose. He should attempt to show first, that the United States, at the time of adopting the constitution, had power to grant to a General Government the right of ultimate decision; second, that the States intended to do it; third, that they did it; and, fourth, that they have always since acted up to this intention. He would pledge himself to make these propositions, if he could. What is sovereignty? There is but one absolute sovereign—except the Sovereign of the Universe. No State is sovereign except in respect to other States. Every nation that governs itself, under what form soever, without dependence on a foreign power, is sovereign. Can the Government enforce obligations upon the people of this Union? When sovereignty is vested, it is vested with the right to govern the people over whom it acts. If the people disposed of a part of their sovereignty to a certain body of men, they made a grant at will, which they can resume whenever they please. The grant to a certain body of men of exclusive legislative, judicial, and executive power, is a grant at will, according to our Declaration of Independence. The power that gives the sovereignty can take it back; but where several States concur to grant a sovereignty for the common benefit, two or three of the parties cannot withdraw it without the assent of the whole. He did not care whether the States or the people made the grant.

The inquiry whether the States or the people made the grant is entirely beside the question. Suppose Great Britain made the constitution for us. The question would be, what is it? Does it vest in the United States sovereign powers, whether expressly, or by implication? That the powers given by the constitution are sovereign, there is doubt. The powers to make peace and war, to coin money, &c., are attributes of sovereignty. Two or more States may grant to a common Government all their legislative, judicial, and executive powers. This would be a grant of their

whole sovereignty. Consequently, they might grant certain defined powers, and this would be a grant of a portion of their sovereignty. Those principles by no means admit the inference that the people of a State may reserve federal sovereignty. Two or more States, then, as they have the power, may vest in the common Government the right to define its own limits. He would admit that where the majority of the people could decide, the Government would become consolidated. But that consolidation, in this case, would result in despotism, he would not admit. The federal power, so far from tending to consolidation, held the popular power in check.

This was a most happy frame of Government. The popular power held the federal power in check, and the federal power checked the popular power. He need not go beyond these walls for an illustration of this position. Can the majority of the people of the United States, without the concurrence of the States, as States, carry a measure? Certainly not. Look at the facts of the case. He would illustrate it by a few examples. Fourteen States of this Union, in population a little above one-fourth of the whole population of the United States, can defeat any measure of the House of Representatives. Thirteen States in population somewhat below a fourth of the whole population of the United States, or even twelve States with a population but a little above one-third of the whole, may defeat any federal law. How, then, can the popular branch carry any measure they please, and produce a consolidation of power? But this was not all. Thirteen States could always check the whole popular power in the appointment of judges, for the judges were created by the federative power. The States, too, were represented in the electoral colleges. No Government under heaven was so capable as this is of protecting the rights of the minority. If each State had an equal vote, the Government would be merely federative; and if the House of Representatives had all the legislative power, the Government would be consolidated; but it was neither federative nor consolidated. The federative in the Senate, and the popular power in the House, checked each other, and there was a third compound power in the Executive which checked both. Never was power in any Government so well balanced. Yet we are told that we must go beyond this power, to ascertain whether State rights have been violated here or not.

Having shown that the States could form just such a Government as we have, the next question was, did they design to form it? If they did not, then they deceived the people, or the people deceived themselves. What was the old confederation called? "A league of perpetual union," not a Government. The constitution was called the Constitution of the United States; that is, a constitution of Government. Each State, under the old confederation,

retained its sovereignty, freedom, and independence; and every power, jurisdiction, and right, which is not by the confederation expressly delegated to the United States in Congress assembled. Under the constitution, the powers not delegated to the United States by the constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people. The old confederation had legislative but not executive and judicial power. He appealed to gentlemen to say whether the constitution was formed for any other purpose but to create a sovereign power. It bestowed on the General Government all the attributes of sovereignty, and it began, "We, the people of the United States, in order to form a more perfect Union," &c.

Mr. H. then compared the Constitution of the United States, with that of the State of South Carolina, to show that, in title, and in the causes conferring judicial, executive, and legislative power, they bore a strong resemblance, and had the same object in view—the creation of a sovereignty. In each case, the framers seemed to think they were doing the same sort of business; making a compulsory power for the purpose of enforcing obedience to the constitution. Was it to be believed that the State constitutions were to be enforced, and the federal constitution to be observed or not, at pleasure? The constitution of South Carolina is the Government of South Carolina, and that of the United States is the Government of the United States. There is nothing in the Constitution of the United States which authorizes the supposition that laws made by the United States can be resisted by any other power. The presumption is, that the same power which has legislative authority has also the authority of adjudication; and that the same government that makes the laws can alone repeal them; and, further, that even the same branch of the government which makes can unmake a law, unless otherwise provided for. In the case of war and peace, a peace may be made by the President and two-thirds of the Senate, though, to declare war, the whole concurrent legislative authority is necessary. Ordinarily, the power that makes is the only power that can repeal a law. Would it not be an anomaly in legislation, if one power could make a law, and a portion of that power repeal it? South Carolina is but one of the family, but seeks to control the whole. Like the old lady in Dr. Franklin's story, she does not know how it happens that, in all the family quarrels, she is always right and the rest are always wrong. We have a Legislature, an Executive, and a Supreme Court; all exercising supreme authority. If we had need of more positive proof that these powers are supreme, we have it in the fact that all State officers are sworn to support them, and the State judges are bound thereby, in contravention of State laws and constitutions. Every judge in South Carolina must swear this, notwithstanding the ordinance. The design of

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[SENATE.]

the framers of the constitution was to make a common sovereignty, as we find by looking back to their correspondence. Under the confederation, the States were *pares*, and there was no power to compel a refractory State to obey the laws of the Union. Their whole object was to get this compulsory power. Every thing else was right, except the means of protecting the common interests.

The design of the great founder of our Government was apparent from a letter to a friend in Great Britain, in which he says, "they (the people) see the necessity of a general controlling power, and are addressing their respective Assemblies to grant it to Congress." Again he says, "I do not see that we can long exist as a nation, without lodging somewhere a power which will pervade the whole Union, in as energetic a manner as the authority of the State Governments extends over the several States." We see that he believed this controlling power to be essential to the preservation of our independence.

Having considered, continued Mr. H., whether this power could be and was intended to be granted, it remained with him to inquire next, whether, in fact, it was granted. This was a constitutional Government, and, therefore, it was sovereign as far as to all powers delegated to it. This was the general understanding of the people; and the idea of nullification and reserved rights was almost everywhere ridiculed by them. In a Tennessee newspaper he had seen a story which he would relate. A law of that State respecting marriage, required the publication of the banns some time previous to the marriage. The time appeared, too, very long to one individual, and he determined to oppose the law and set himself down on his reserved rights. The law did not prohibit marriage, which would be flatly unconstitutional, but it delayed it, and therefore was in a measure unconstitutional. He accordingly nullified and disobeyed the law. If we refer to the powers granted to the Federal Government, we shall be satisfied that they have all the essential attributes of sovereignty: they were the powers of taxation, war, treaties, coin, commerce, domain, allegiance, (*viz.* treason,) and naturalization.

What attribute of sovereignty was more essential than the right, in some manner, to determine definitively and effectually its own limits? The Senator from Kentucky (Mr. BRIS) said, as he understood him, (he was sorry that he was not present to say whether correctly or not,) that the Supreme Court could judge only in judicial cases, and not in political cases. But were not controversies between States political cases?

The judicial power extends to all cases in law, arising, &c., and the cases are described; one case mentioned is that of controversies between States. A sovereign State, it is said, must not be drawn to the feet of the Federal Government; but in a case involving political power, the Supreme Court must adjudicate upon it.

What case controverted between States was not a political case, except those merely of *meum* and *tuum*? Questions arising relative to foreign ambassadors are also political cases.

The power might be humbling to the pride of the States, but it was essential to the General Government, and was intended to be given by the framers. The large and proud States might seek, with more confidence than the smaller and weaker States, to destroy this power. How would Rhode Island and Delaware fare if the General Government could not protect their rights in controversies with more powerful neighbors? He should think that no small State would ever consent to this doctrine.

Ne, sir, it is the rock of their political salvation. He would warn them to cling to it. Whenever the judiciary should be deprived of the power of deciding controversies between the United States and a State, the great States would eat up the little ones; gentlemen might depend upon it. All the quarrels between the General Government and the United States had originated with the large States. The State of Virginia, in 1798, passed her famous resolutions, going a great length; a little too far; travelling in the road of nullification. What did Massachusetts say on that occasion? [Here Mr. H. read the resolutions passed by the State of Massachusetts relating to the proceedings of Virginia.]

Pennsylvania had a dispute with the General Government on the subject of the Olmstead case. Well, Pennsylvania is a large State; she kicked up her heels, and there was an application made to the military power. Gen. Bright,

"—— With his ten thousand men,
Marched up the hill, and then marched down again."

The marshal very peaceably executed his precepts. Then that State applied to the other States, saying that there must be some other tribunal to decide cases of this description, instead of the federal court. Virginia replied that the United States Supreme Court was the constituted tribunal, and that no better could be found. How did Massachusetts act during the time that the embargo law was in force? She was for declaring the law unconstitutional, and really did so. Pennsylvania and Virginia joined in that opinion. The large States were always troublesome to manage. They would wax faint and kick.

The Senator from Kentucky (Mr. BRIS) had said that no process could be devised to compel a sovereign State to yield to the judgment given in favor of another sovereign State. He thought he was lawyer enough to devise a process to make Massachusetts come into court and answer to Rhode Island. [Here Mr. H. named the various processes that would be necessary to effect that object.] Yes, he could put the little State of Rhode Island in such a position, that, if Massachusetts were to attempt to disturb her, she might double her fist and say, "Touch me if you dare!" In giving

this great power, he admitted there is much danger, but not so much as may appear at first sight.

The power must be vested somewhere, and where else can it be vested? If we give any power at all, we must give as much as is given in this bill. It was a high-handed power, he admitted, but not more high-handed than the power assumed by a State to nullify the laws of the Federal Government. Legislative power was not in so much danger of being abused as was power vested in the hands of the Executive. This bill gave to the President all the power which the circumstances exacted, but it gave him no more. He was never too much disposed to give power to a President, and to this President he would not give it quite so soon as he would to any other. The remedy against the abuse of power was here; and the construction of the Government itself. The House of Representatives is only elected for two years, when they must be accountable to their constituents. Senators are elected for six years, when they must answer to their States for the share they have taken in the federal administration. In both branches there is an equal responsibility to the body politic. The President himself is also responsible to the people, acting through their representatives; and in consequence of these securities, the danger of the abuse of power was very much diminished. After all, if a State conceived itself to be injured by any abuse of power, it had the right to appeal to the good sense of the community, and could apply for an amendment of the constitution. Then, after that, came the last remedy—revolution. If the whole people were so depraved, so corrupt, and so bent on oppression, that there was no hope of any redress, then the only remedy was revolution. But the gentleman from Kentucky had put an extreme case, a case which was not even to be supposed; one which the framers of the constitution never had contemplated; but still, if such case should ever occur, then the remedy must be revolution. It had been said there was danger to be apprehended from the investment of this power in the hands of the Executive. But it appeared to him that when the gentlemen who made this observation were stickling against giving the President these powers, after what they had done in former instances, they were straining at a gnat and swallowing a camel.

Suppose that the Federal Government were to permit South Carolina to carry her point, and to have things just as she desired. The principle being extended thus far, where would the Government stop? South Carolina, he would suppose, had made her regulations to admit goods into her ports without the payment of duty. In reference to commercial advantage, this would at once destroy the equality between the States. South Carolina would exclusively enjoy the benefit of this regulation, to the injury of all the others. On this principle, any State may nullify the laws of the Union. Suppose that Rhode Island had adopted a pro-

vision that no law of the United States which did not adopt the principle of the protective system should be considered as constitutional, on the ground that the principle of protection is recognized by the constitution. She has the same right as South Carolina to adopt nullification. And suppose that South Carolina should declare that no law should be constitutional which adopted the principle of protection. These conflicting opinions of the States would place the Federal Government in a position where its action is sure to be wrong.

He would now ask what had been the opinions of the large States as to the powers of the General Government? At the very first session of the first Congress this power was assumed in the great judiciary bill for a final determination of all questions between the United States and a State. The 25th section of that bill had been a standing law through all the different administrations of the Government. It was passed in the Senate by a vote of 14 to 6—South Carolina voting unanimously in its favor; and it passed the House of Representatives without a division. No attempt was made during the whole discussion of that bill to strike out the 25th section of it, which has been a standing law ever since. It was considered as the sheet anchor of the constitution, that which was to hold us together eventually through all the storms of politics which might occur. Virginia, Pennsylvania, and Massachusetts failed in their powerful attempts to resist the constitutionality of this section. Why had not the section been repealed, if it was so unconstitutional? Congress dared not repeal it, for the repeal of that section would break up the Union.

It had been asked what was the necessity for this bill? What had South Carolina done? He could only answer that she had done this, she had done nothing more than to repeal our laws, and to make it highly criminal to execute them. She had repealed them in many points, as he showed by a reference to her acts, and she had also done a few other things. She had raised an army to carry on a contest against the United States. This was easily shown. She had raised an army to enforce the execution of her own laws, which have repealed the laws of the United States; and, in doing this, had she not raised an army to carry on a contest with the United States? It was a direct aggression. He would adapt the law precisely to meet the case. The State of South Carolina would have no good reason to complain if the penalties prescribed by the laws of the United States for violating their laws were no greater than those which she has enacted for a violation of hers. There could be no great cruelty in this course. Mr. H. then read the fines and penalties imposed by the acts of South Carolina. He stated that the General Government was, by the provisions of these laws, placed in a situation where she was obliged to legislate so as to meet the whole case.

FEBRUARY, 1853.]

Revenue Collection Bill—Powers of the Federal Judiciary.

[SENATE.]

WEDNESDAY, February 6.

Presidential Election—Counting of Votes.

Mr. GRUNDY, from the joint committee appointed to ascertain and report the mode of examining the votes for President and Vice President of the United States, reported a resolution, fixing on Wednesday next as the day for counting the votes, when the Senate will attend the House for the purpose of witnessing the examination of the votes. The hour appointed for the proceedings is 1 o'clock. The resolution was agreed to.

Revenue Collection Bill.

The Senate proceeded to consider the bill to provide further for the collection of the duties on imports.

Mr. TYLER said: I now come to the most important part of the work which I have to perform. I shall now proceed to touch the bill itself; and I propose to dissect its provisions and expose its enormities. He would take the bill up by sections, because he believed that the work had not yet been done, and he desired that the Senate should be fully advised of the character of the bill before they enacted it into a law. He regarded it as the first fruit of the doctrines he had combated.

I object to the first section, because it confers on the President the power of closing old ports of entry and establishing new ones. It has been rightly said by the gentleman from Kentucky (Mr. BRAN) that this was a prominent cause which led to the revolution. The Boston port bill, which removed the custom-house from Boston to Salem, first roused the people to resistance. To guard against this very abuse, the constitution had confided to Congress the power to regulate commerce; the establishment of ports of entry formed a material part of this power, and one which required legislative enactment. Now I deny that Congress can depute its legislative powers. If it may one, it may all; and thus, a majority here can, at their pleasure, change the very character of the Government. The President might come to be invested with authority to make all laws which his discretion might dictate. It is vain to tell me (said Mr. T.) that I imagine a case which will never exist. I tell you, sir, that power is cumulative, and that patronage begets power. The reasoning is unanswerable. If you can part with your power in one instance, you may in another and another. You may confer upon the President the right to declare war; and this very provision may fairly be considered as investing him with authority to make war at his mere will and pleasure on cities, towns, and villages. The prosperity of a city depends on the position of its custom-house and port of entry. Take the case of Norfolk, Richmond, and Fredericksburg, in my own State; who doubts but that to remove the custom-house from Norfolk to Old Point Comfort, or of Richmond to the mouth of the Chickahominy, or of Fredericksburg to Tappahannock

or Urbanna, would utterly annihilate those towns? I have no tongue to express my sense of the probable injustice of the measure. Sir, it involves the innocent with the guilty. Take the case of Charleston: what if ninety-nine merchants were ready and willing to comply with your revenue laws, and that but one man could be found to resist them; would you run the hazard of destroying the ninety-nine in order to punish one? Trade is a delicate subject to touch; once divert it out of its regular channels, and nothing is more difficult than to restore it. This measure may involve the actual property of every man, woman, and child in that city; and this, too, when you have a redundancy of millions in your treasury, and when no interest can sustain injury by awaiting the actual occurrence of a case of resistance to your laws, before you would have an opportunity to legislate.

Again: "All duties, imposts, and excises shall be uniform throughout the United States;" and yet this section invests the President with authority to exact cash duties at one place, while the credit system prevails at another. These extraordinary powers were to be exercised, not only to put down unlawful combinations, but whenever there were any "unlawful threats." Now I wish to know, for I am much attached to a distinct and definite phraseology, what would be considered as constituting unlawful threats? If one of the Government inspectors should chance to be abused by a drunken blackguard in the streets, was that to be deemed an "unlawful threat," which would invest the President with authority to call the military into requisition? Every power is surrendered; and the discretion of the President is the only rule for his government.

But this is not all. He is further empowered to employ the land and naval forces to put down all "aiders and abettors." How far will this authority extend? Suppose the Legislature of South Carolina should happen to be in session: I will not blink the question; suppose the Legislature to be in session at the time of any disturbance, passing laws in furtherance of the ordinance which has been adopted by the convention of that State; might they not be considered by the President as aiders and abettors? The President might not, perhaps, march at the head of his troops, with a flourish of drums and trumpets, and with bayonets fixed, into the state-house yard at Columbia; but, if he did so, he would find a precedent for it in English history.* So, also, Governor Hayne would be in some danger; and any judge or juror, who should dare to justify the popular movement by any judgment or verdict against the tariff laws, would run the hazard of being suppressed. But, sir, the thing might not even stop here. My own State has never failed to denounce

* "Colonel Pride's purge," as it was called, in the time of Oliver Cromwell.

these tariff laws as unjust and unconstitutional; and, inasmuch as all such denunciations have a tendency to excite the public mind, it might fall under the appellation of "aiders and abettors." I, too, sir, have followed the example of Virginia in opposition to the protective policy, and it may be my fate to be punished under the first section of this bill—I say the first section.

I have all proper confidence in the President, but I have an instinctive abhorrence to confiding extravagant powers in the hands of any one man. If they should be used by the present President with a proper discretion, and for the common good, if our institutions should come safely out of his hands, yet the precedent would be left on the statute book, and other Presidents might not use the power so beneficially. Rome was perfectly safe when she called Cincinnatus from the plough and clothed him with dictatorial authority; but she had cause long to bewail the dictatorship of Sylla and Caius Marius. I therefore say nay to this grant of powers. I care not what may be the character of the Chief Magistrate; how high his public worth may be rated; or how great and splendid may have been his services to his country: I will not intrust such powers in his hands. I would not even have confided them to him who was properly called *Patria Pater*.

The second section extends the powers of the United States courts over a portion of the criminal jurisdiction now belonging to the State courts exclusively. Let me state a case. If an officer of the customs shall differ, in regard to any matter appertaining to his duties, with any citizen of Richmond, or any other place, and a quarrel should thereupon arise, and the custom-house officer shall beat and maltreat such citizen, no redress for the injury can be obtained in the State courts, and the action for damages can alone be brought in the federal courts. Nay, sir, if the revenue officer commit murder, cold-blooded murder, he is triable for the same only before the United States court, maugre the laws of Virginia, which prescribe the punishment for the offence, and the mode of trial. Thus rescuing the citizen from responsibility to the tribunals of the State of which he is a citizen, and overturning usages which have existed through all time.

The well-known and established legal means of proceeding in the State courts are, by this section, also abrogated, by preventing writs of replevin, detinue, or trover, or attachments in equity, where the subject of the suit may be in the hands of any officer of the United States, no matter how acquired. Can it be the design of the Senate, by a law applicable to every State in the Union, to deprive the State courts of the jurisdiction they have enjoyed, *ad urbe condita*, to the decided profit and convenience of the citizens of the country?

The third section carries out the second, and furnishes an instance of practical nullification every way equal to the South Carolina ordinance. It presents the singular spectacle of the

translation of a cause *ad aliud examen*; while the record, the only evidence of the existence of such a case, is left behind. It requires an act to be done by "a court," and yet declares that this very act is to be deemed and taken as done, when the petition for its performance is left in the office of the clerk of the court. Further, after the suit is removed by the defendant, by the mere deposit of his petition for removal, without notice to the plaintiff, the plaintiff is required to proceed *de novo*; and if he does not comply with this unknown order, a judgment of *non pros.* is to be entered against him, with costs. Now, sir, I beg to know what the plaintiff has done to merit all this. He has brought a proper suit in a proper court, against a proper defendant, which suit the defendant may or may not remove at his own pleasure; and yet the plaintiff is to be burdened with all the costs, in any event, which may have been incurred in the State court; nor is the defendant required to give bond to answer costs and damages, not even the additional costs to which the plaintiff may be liable.

I pass over the fourth section, and proceed to the fifth. This provision inspires all the officers of the Government, and all the "State authorities," from the Governor down to the constable, with the spirit of prophecy. Formerly, that was a spirit which visited the world at intervals "wide and far between." It was that spirit which "touched Isaiah's holy lips with fire," and had its origin, not in parliaments or legislative assemblies, but in a much higher source. But this section converts every petty officer into a prophet, and endows him with the faculty of foretelling coming events. Mr. T. then referred to the language of the bill, which empowers the President to call out the military and naval force, when he shall be informed that the laws will, in any event, be obstructed. If the President was informed that the laws will be obstructed, these coming events are to be arrested by the interposition of Executive power. How would this work? No, I will not say how would, but how might it work! A judge—no, a constable, picks up an anonymous letter, or a general order, such as had been exhibited here in this debate, in which there was a great talk about a military force—a steamboat had lowered the flag of the United States half-mast, and raised above it a tri-colored ensign; he communicates these ominous facts, dovetailed with such comments and rumors as his fears may have created, or idle gossip conjured up, and the President adopts the conclusion that the revenue laws will be violated, and issues his proclamation accordingly. Yet, after all, it may turn out that this informant has been frightened with shadows, and shadows would have more effect upon one of these officers than ten thousand men armed in proof would have upon the President himself. Take the controversy now pending between the States of New York and New Jersey, which materially affects the interests of the city of New York; and sup

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Revenue Collection Bill—Nullification.

[SENATE]

pose that the Supreme Court decides against New York, and issues its process against Governor Marcy; the people of the city are roused against the decision, denounce the Supreme Court, have numerous attended meetings in their City Hall, and parade their streets in a threatening attitude. What is to be done? The marshal makes no effort to execute the process, but reports to the President that the laws will be resisted. A proclamation is thereupon issued; the military is ordered out; and a collision may or may not be brought on, as the feeling or policy of the hour shall prevail.

The sixth section of the bill he viewed as a Botany Bay law. It was in fact a Botany Bay law, with one exception, that the law in England requires conviction before transportation; by this, transportation precedes conviction. There, a place is designated to which the convict may be transported; here, to such convenient place as the judge and marshal shall appoint. The marshal is also authorized to make "such other provision," for the safe keeping of the prisoner, I presume is meant, as he may deem "necessary and expedient." Suppose a man to be arrested for a debt due the United States; the jails are closed against his reception, and the marshal is to carry him to some convenient place; is he not completely in the power of the officer? and may he not drag him away, far from his friends, to any place he may please, and, under the authority to do whatever he may deem "necessary and expedient," put chains upon his limbs, cast him into a loathsome dungeon, and carry him to the end of the earth? Is there any thing in the section which limits his discretion to the State wherein the party may be arrested? If such was the intention, why not so have said? When the liberty and rights of the people are concerned, why leave that uncertain which may so readily be rendered certain? The absence of all such limitation on the discretion of the officer, as the section now stands, raises the implication that no such restriction is designed. It may be said that the judge and marshal may be well trusted. It may or may not be so. But there can be no necessity for extending a power which may be abused, when the abuse may so easily be limited and restrained.

There was no ambiguity about this measure. The prophecy had already gone forth; the President has said that the laws will be obstructed. The President had not only foretold the coming difficulties, but he had also assembled an army. The city of Charleston, if report spoke true, was now a beleaguered city; the cannon of Fort Pinckney are pointing at it; and although they are now quietly sleeping, they are ready to open their thunders whenever the voice of authority shall give the command. And shall these terrors be let loose because some one man may refuse to pay some small modicum of revenue, which Congress, the day after it came into the treasury, might vote in satisfaction

of some unfounded claim? Shall we set so small a value upon the lives of the people? Let us at least wait to see the course of measures. We can never be too tardy in commencing the work of blood. May we not indulge the expectation that South Carolina will have some regard to her own peace, and not bring matters to an issue with unnecessary precipitation? I hope that a voice, which has gone forth from Virginia, will arrest her attention. Sir, I have heard my State slightly called the Mediator State. She is so, and I rejoice that she has assumed that office. In the great cause of union, I trust she will always joyfully press forward, and, addressing herself to a sister State, whose interests are nearly identical with her own, I will not doubt but that her mediation will prove successful. Then scoff at her who may, she will have presented you the olive branch, and furnished new cause for your gratitude and affection.

I regret that the course adopted here has not been better calculated to avoid a rupture. I fear me that what has been done has been but too well calculated to chafe the spirit of that honored and lofty State. An army had been sent thither, instead of a messenger of peace; revenue cutters to watch her commerce; an armed ship riding in her roadstead; and a proclamation issued breathing denunciation. These were not calculated to allay excitement. I think a better course might have been adopted. If the President had rested upon his message at the opening of the session, my belief is that the tariff would have been reduced. But it was in the nature of man to fight for money. Some of the advocates of the tariff on this side of the Potomac were ready to yield a portion; but I fear that to others the temptation of high profits is too strong to be resisted, more especially when the army and navy, and the whole military force, is to be employed to rivet high duties on the country. An honorable exception was found in Virginia. All classes of society and all interests united in recommending a suitable modification, manufacturer and all, so far as the resolutions of the Legislature furnished any evidence of public sentiment. But it is a bad mode of settling disputes to make soldiers your ambassadors, and to point to the halter and the gallows as your *ultimatum*.

Sir, if a foreign country violates her treaty stipulations, spoliates upon your commerce, and holds your friendship as nothing, you still negotiate; you resort to every possible expedient to preserve peace; you will invest the President with no discretionary power to declare war; but if a State braves your authority, and threatens to set your laws at defiance, you pant for the contest, and commit to the hands of the President unlimited discretion; and yet what are the horrors of a foreign, compared with those of an intestine war?

If the majority shall pass this bill, they must do it on their own responsibility; I will have no part in it. When gentlemen recount the

blessings of union; when they dwell upon the past, and sketch out in bright perspective the future, they awaken in my breast all the pride of an American; my pulse beats responsive to theirs, and I regard union, next to freedom, as the greatest of blessings. Yes, sir, "the Federal Union must be preserved." But how? Will you seek to preserve it by force? Will you appease the angry spirit of discord by an oblation of blood? Suppose that the proud and haughty spirit of South Carolina shall not bend to your high edicts in token of fealty; that you make war upon her, hang her Governor, her legislators, and judges, as traitors, and reduce her to the condition of a conquered province—have you preserved the Union? This Union consists of twenty-four States; would you have preserved the Union by striking out one of the States—one of the old thirteen? Gentlemen had boasted of the flag of our country, with its thirteen stars. When the light of one of these stars shall have been extinguished, will the flag wave over us, under which our fathers fought? If we are to go on striking out star after star, what will finally remain but a central and a burning sun, blighting and destroying every germ of liberty? The flag which I wish to wave over me, is that which floated in triumph at Saratoga and Yorktown. It bore upon it thirteen States, of which South Carolina was one. Sir, there is a great difference between preserving union and preserving Government; the Union may be annihilated, yet Government preserved; but under such a Government no man ought to desire to live.

His mode of preserving the Union was by restoring mutual confidence and affection amongst the members; by doing justice and obeying the dictates of policy. The President has pointed out the mode in his opening message. We had been informed that there was an excess of \$6,000,000 in the treasury. I would destroy that excess; yet I would not rashly and rudely lay hands on the manufacturer, if I had the power to do so. While giving peace to one section, I would not produce discord in another. It would be to accomplish nothing, to appease discord in one section and produce it in another. The manufacturers desire time; give them time, ample time. If they would come down to the revenue standard, and abandon the protective policy, I would allow them full time. I present these suggestions, for I am anxious to see this vexed question adjusted.

It had been said that it would not do to offer terms while South Carolina maintained a menacing attitude. I consider this view altogether erroneous. Shall not justice be done to the other Southern States? They, too, complain loudly, deeply, of the oppressive burdens under which they labor in common with South Carolina. But, regard it as exclusively a South Carolina question; what prevents you from yielding to her wishes? Pride, alone, stands in the way—false pride. It is the worst, the most pernicious of counsellors. Against its influence Lord

Chatham and Edmund Burke raised their voices in the British Parliament; but the reply was, that it would not do to make terms with revolted colonies; and a besotted ministry lost to the English crown its brightest jewel. It is idle to talk of degrading Government by yielding terms. This Government is strong—South Carolina weak. The strong man may grant terms to the weak; and, by so doing, give the highest evidence of magnanimity. All history teems with instances of the evils springing from false pride in Governments. Bruised thrones, dismembered empires, crushed republics; these are its bitter fruits. Let us throw it from us, and try the efficacy of that engine which tyrants never use; that great engine which would save Poland to Russia, Ireland to England, and South Carolina, not as a province with her palmetto trailing in the dust, but as a free, sovereign, and independent State, to this confederacy—the engine of redress. This is my advice.

But my advice is disregarded; you rush on to the contest; you subdue South Carolina; you drive her citizens into the morasses, where Marion and Sumpter found refuge; you level her towns and cities in the dust; you clothe her daughters in mourning, and make helpless orphans of her rising sons: where, then, is your glory? Glory comes not from the blood of slaughtered brethren. Gracious God! is it necessary to urge such considerations on an American Senate? Whither has the genius of America fled. We have had darker days than the present, and that genius has saved us. Are we to satisfy the discontents of the people by force—by shooting some and bayoneting others? Force may convert freemen into slaves; but, after you have made them slaves, will they look with complacency on their chains? When you have subdued South Carolina, lowered her proud flag, and trampled her freedom in the dust, will she love you for the kindness you have shown her? No; she will despise and hate you. Poland will hate Russia until she is again free; and so would it be with South Carolina. I would that I had but moral influence enough to save my country in this hour of peril. If I know myself, I would peril all, every thing that I hold most dear, if I could be the means of stilling the agitated billows. I have no such power; I stand here manacled in a minority, whose efforts can avail but little. You, who are the majority, have the destinies of the country in your hands. If war shall grow out of this measure, you are alone responsible. I will wash my hands of the business. Rather than give my aid, I would surrender my station here, for I aspire not to imitate the rash boy who set fire to the Ephesian dome. No, sir, I will lend no aid to the passage of this bill. I had almost said that "I had rather be a dog and bay the moon than such a Roman." I will not yet despair; Rome had her Curtius, Sparta her Leonidas, and Athens her band of devoted patriots; and shall it be said that the American

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Revenue Collection Bill—Nullification.

[SENATE.]

Senate contains not one man who will step forward to rescue his country in this her moment of peril? Although that man may never wear an earthly crown or sway an earthly sceptre, eternal fame shall wreath an evergreen around his brow, and his name shall rank with those of the proudest patriots of the proudest climes.

Mr. CLAYTON, of Delaware, then took the floor, and moved an adjournment.

THURSDAY, February 7.

Military Orders.

Mr. POINDEXTER offered the following resolution:

Resolved, That the President of the United States be requested to cause to be laid before the Senate copies of the orders which have been given to the commanding officer of the military forces assembled in and near to the city of Charleston, South Carolina; and also copies of the orders which have been given to the commander of the naval forces assembled in the harbor of Charleston; particularly such orders, if any such have been given, to resist the constituted authorities of the State of South Carolina, within the chartered limits of said State.

Revenue Collection Bill.

The Senate then again proceeded to the bill making further provision for the collection of the revenue.

Mr. CLAYTON said: If the measure proposed by the bill should, as is alleged, drive South Carolina to open secession, still, sir, I hold that State secession is a less evil than State nullification. I think the soundness of this opinion is easily demonstrable. If the latter doctrine be triumphantly established; if it be, indeed, true that any one of these States can constitutionally and rightfully decide, in the last resort, on the mode and measure of redress for all her alleged grievances; then, sir, is South Carolina, while all her ports are open for the admission of every article of importation, duty free, still within the pale of the Union, and entitled to participate in all its blessings, though she refuse to share in any of its burdens. The whole amount of southern exports, estimated at forty millions annually, may be exchanged for foreign manufactures and foreign produce; and by virtue of this ordinance of nullification, the exchanges may, through the free ports of Charleston, Beaufort, and Georgetown, be transhipped coastwise, and forced upon the consumption of the whole country, in defiance of all our laws for the collection of duties. The immediate effect of this must be desolation and ruin to us—desolation and ruin so certain and so speedy, that our southern fellow-citizens would find us a prey hardly worth the trouble of further pursuit, after the lapse of five or ten years from the period when such a system should go into effective operation. Throwing out of view the destruction of our manufacturers

and mechanics (the immediate consequence of this state of things), I ask, what have we—to what possible resources can we apply—to meet this never-ending drain of our means and money to pay for all the most important necessities of life thus purchased abroad? In a few years we should be beggared by the operation of such a state of things, and soon after, where the husbandman now goes happily to his plough, and the mechanic sings cheerily to the sound of his axe or his hammer, the country would be rapidly deserted, and, in a few more fleeting years, would present but a wild and melancholy waste, a lasting monument to posterity of our own folly and pusillanimity. And let it not be overlooked by those who would temporarily riot in the profits thus drawn from the hard hand of honest industry, that they would eventually be the losers by their own avidity; for where would be their market for articles received in exchange for their immense surplus produce, when we should be no longer able to buy them? On the other hand, the consequences of the secession of South Carolina from the Union, though that would be an event deeply to be deplored, while the memory of our national glory is retained, would be infinitely to be preferred by us to such a condition of affairs. In the event of her successfully maintaining her separate independence, we should subject all her products, and all her exchanges obtained for them, when introduced among us, to our own tariff; and, if peace did not smile upon us as it heretofore has, we should, at least, by the sacrifice of some of its blessings, maintain our independence of all foreign nations. I tell the honorable members from Carolina, therefore, that, while secession has its terrors for me, nullification presents even still greater evils in perspective; that I have been driven in sorrow to that task of calculating the value of this Union, which I once supposed I could never learn, and which I still think no man can learn, while the constitution stands unimpaired by misconstruction, and that I cannot be deterred from the support of this bill, whose only object is to countervail the effects of their State ordinance and State legislation, by the threat of disunion as a necessary consequence of its passage.

I come then, sir, to the discussion of the main question before us.

Are the ordinance and laws of South Carolina, set forth in the President's message, consonant with the Constitution of the United States? If repugnant to the provisions of that sacred instrument, has the State a right to secede from the Union? Have we the power to coerce obedience to our revenue laws? And, if we have such power, are the provisions of this bill such as are proper to secure that obedience?

There never was a question more involved in metaphysical subtleties than the essential inquiry into the right of nullification and secession has been, by the respective advocates of these different doctrines. They invariably seek out the most refined, and often, I may add, the

most indefinable distinctions. It would with them be evidence of gross obtuseness of intellect, to fail always to discriminate between the foundation of the powers of the Government, and the sources from which those powers are drawn; between sovereignty and sovereign power, determining at the same time with precision where each of these originated and where they now remain, and between the effect of a ratification by the people of the United States collectively, and that of a ratification by the same people voting by State divisions. The distinction between a State and the people of a State is made and carried so far, that the State itself is considered as a kind of ethereal, supernatural being, whose essence is illimitable, uncontrollable sovereignty over the very people composing it, and to whose will alone it is indebted for "a local habitation and a name." The recent address to the people of South Carolina, by their delegates in convention, is replete with such distinctions.

I admit, sir, that, by the very terms of our constitution or form of government, there is an ultimate sovereignty, a paramount power of amendment and revocation, resting in the people of three-fourths of the States. Undoubtedly it is true, that this ultimate sovereignty has never been alienated or delegated. It is true, too, that the people of the United States (not of South Carolina alone) have reserved to themselves, or their respective States, all the attributes of sovereignty not delegated by the constitution. Nay, more sir, I recognize, and glory in the recognition of the principles of our revolutionary forefathers, that the right to resist tyranny and oppression, no matter by what power exercised, still exists in every man, not as a constitutional or delegated power, but as an inherent, indivisible, and unalienable right. But this ultra-constitutional and revolutionary right, which, when exercised, must always confessedly subject those who attempt to enforce it to the penalties of treason in the event of their failure, is as widely different from the pretended right of nullification, as the heavens from the earth. It is open, unblushing treason against the Government; and, even when asserted under the gallows, has the merit of being more respectable, because it is more intelligible and daring, than nullification. It is not a mere State right, but looks above all the restraints of power. It may be exercised against South Carolina by her own citizens, or against this Government by the people of the United States. It is nothing more than the right of rebellion; the right of self-preservation; the right to fight in self-defence. No man ever did, or ever could part with it. If successfully vindicated in a righteous cause, he who asserts it becomes a hero; if unsuccessfully, a traitor. Ask the nullifier if this is the sovereignty which he refers to as a unit, indivisible, and unalienable, and he will tell you, no! He seeks shelter not in his individual resources, but under the ægis of his State; nay, claims protection under the consti-

tution which he seeks to destroy; is horror-struck by the charge of treason, and asserts the right of State interposition as a right reserved in the very bond of our Union: and when, to disprove the right of the State to interpose, you point him to the plain words of the constitution, which negative the right of any State to make war on the rest, which positively prohibit any State to engage in any war, or to keep troops when this Government is at peace, he coolly tells you that these are State rights and attributes of sovereignty, which are, in their nature, unalienable. Sir, this political dogma, understood in the sense of those who use it, never had any foundation in truth. As an axiom of political science, it is unknown among statesmen.

Sovereign power was not only considered as divisible by those who formed this Government, but we see that the chief beauty of their whole structure consists in the many divisions which have been made of it. One portion of it is to be found in the House of Representatives, which, for example, can alone originate impeachments and bills for raising revenue. Another portion of it is in the Senate, which, while it generally exercises concurrent legislative power with the House, has the peculiar right to check the Executive in the administration of the appointing power, and constitutes the National Judiciary in all cases of impeachment. Another portion of sovereign power is in the Executive; another in the Congress and the President combined; another in the Judiciary; another in each State, which can never lose her equal representation in the Senate, without her consent; another in the majority of the people of each State; and another in three-fourths of all the States.

The people have conferred upon the judicial department of their Government the power to settle, in the emphatic language of a resolution of the Legislature of Delaware, which I received yesterday, and which it gives me pleasure to sustain to-day, "all controversies between the United States and the respective States, and all controversies arising under the constitution itself." I view this judicial power as a necessary incident to the right of self-preservation existing in the Government, and as being expressly delegated by the constitution. The gentleman from Virginia contends that, when Governments come into collision, the Supreme Court of the United States cannot decide; and the gentleman from Kentucky (Mr. BIRD) takes a distinction between political and judicial power, and avers that the question now in agitation, touching the constitutional power of South Carolina to nullify the laws, cannot be decided by the court, because the decision would involve the exercise of political power.

When Mr. Marshall, the present illustrious president of the court, in his place as a member of the House of Representatives, took the distinction relied upon between judicial and political power, he clearly explained and defined it.

FEBRUARY, 1833.]

Revenue Collection Bill—Powers of the Federal Judiciary.

[SENATE.]

I want no better authority than his to sustain my positions, though the adversary argument has been rested upon it. His conceptions, as expressed by himself in that debate, on the case of Jonathan Robbins, was, that the court could decide only in cases brought before it; that it could do nothing of its own mere motion. It has no legislative or executive power; but in every case, in law or equity, which can arise under the constitution or laws, it is, as the courts of the United States are now organized, the sole arbiter, either in the first or in the last resort. And nothing has ever fallen from Mr. Marshall to contradict this principle; on the contrary, the whole current of authorities in the court sustains it.

The true point in issue between us is therefore limited to this: can the question as to the validity of the South Carolina ordinance and legislation, referred to in the Executive message, and whose sole object is to annul and evade our revenue laws, arise before the court? Why not? If it be not presented for determination there, no other intelligible reason can be stated to account for the fact, than the refusal of those who are interested in the matter to bring up that point. In an action for a breach of our tariff laws, the citizen of South Carolina who may claim the benefit of this State interposition, may plead the special matter in bar to the action setting forth the ordinance and laws under which he demands protection. The attorney for the Government must demur to the plea, because the facts contained in it are not traversable. The judgment of the court below and of the court in appeal must be on the very question, whether this ordinance and these laws are constitutional. Will any professional gentleman here deny this? Will any one of them oblige us by stating what difficulty exists in this mode of presenting the whole question in controversy between us to this tribunal? Sir, I defy their scrutiny. They know, as I do, that the case is one which can easily arise before the court, if they dare to submit its decision to that tribunal which the constitution has designated for the purpose.

The President, in his late message in reference to this most interesting subject, has brought back the Government to the true principles of the constitution, and maintained the authority of the court as I have stated it. The sentiments of the Vice President elect coincide with his. Mr. Van Buren, in his speech on the Judiciary in 1826, says:

"It has been justly observed, that there exists not upon this earth, and there never did exist, a judicial tribunal clothed with powers so various, and so important, as the Supreme Court.

"By its treaties and laws made pursuant to the constitution are declared to be the supreme law of the land. So far at least as the acts of Congress depend upon the courts for their execution, the Supreme Court is the judge whether or no such acts are pursuant to the constitution; and from its judgment there is no appeal. Its veto, therefore,

may absolutely suspend nine-tenths of the acts of the National Legislature.

"Not only are the acts of the National Legislature subject to its review, but it stands as the umpire between the conflicting powers of the General and State Governments. But this is not all. It not only sits in final judgment upon our acts as the highest legislative body known to the country; it not only claims to be the absolute arbiter between the Federal and State Government; but it exercises the same great power between the respective States forming this great confederacy and their own citizens.

"There are few States in the Union, upon whose acts the seal of condemnation has not, from time to time, been placed by the Supreme Court. The sovereign authorities of Vermont, New Hampshire, New York, New Jersey, Pennsylvania, Maryland, Virginia, North Carolina, Missouri, Kentucky, and Ohio, have in turn been rebuked and silenced by the overruling authority of this court. I must not be understood, sir, as complaining of the exercise of this jurisdiction by the Supreme Court, or to pass upon the correctness of their decisions. The authority has been given to them, and this is not the place to question its exercise."

In opposition to all authorities, however, honorable gentlemen quote the Virginia resolutions of 1798, and the report on them in 1799. Mr. Madison, who has recently explained a report, of which he was himself the author, is considered by them as not now correctly understanding what he himself wrote; and we are told that Virginia alone can expound what she meant by her resolutions. While I utterly deny her right to expound for the rest of the world the Constitution of the United States; while I hold lightly even her own resolutions, drawn and sent out, as I shall ever believe, chiefly for their political effect in a pending contest for political power between herself and another section of the country; I say to her representatives here, that if she meant in 1798, or in 1799, to deny the powers of the Supreme Court, and arrogate to herself the authority to decide in the last constitutional resort on the laws of Congress or the Constitution of the United States, she has repealed her resolutions by still later resolutions, in reply to those of Pennsylvania, in regard to the *Olmstead* case. My honorable friend from New Jersey (Mr. FREELINGHUYSEN) has shown us that when Pennsylvania proposed, in 1810, to amend the constitution, by appointing an arbiter between the decisions of the States and the General Government, Virginia, by an almost unanimous vote of her Legislature, in answer to the proposition, referred Pennsylvania to the court as the only proper arbiter, and recognized the very principles against which one of the Virginia representatives is now contending. Be it the part of others to attempt to exonerate her from the charge of inconsistency at these different periods—that is no task of mine.

I come, sir, to a brief consideration of the question, are the provisions of the bill before us such as are proper to secure that obedience to the laws of this Government which the pro-

ceedings of South Carolina are calculated to withhold? The leading clause in this bill, authorizing the President to employ the land and naval forces of the Union to arrest the unconstitutional proceedings of the officers of South Carolina, should they attempt to rescue imported goods from our revenue officers, has been the subject of bitter denunciation by Southern gentlemen, and particularly by the gentleman from Virginia. Sir, this is almost a literal transcript from the act of 1809, for enforcing the embargo law. [Mr. C. read the eleventh section of that act, to show that it employed the very words of the bill before the Senate.] Let us now inquire who voted for an act so similar in its provisions to that now before us. Fortunately, the journals of Congress of that day have preserved the yeas and nays on a motion to strike out the eleventh section of the embargo law. In both Houses, nearly all the representatives from Virginia, North Carolina, South Carolina, and Georgia, voted for a bill, which, when now sought to be applied to a different section of the country, is the object of their animadversion and horror. As strong remonstrances were then made against the passage of this law by Congress from other parts of the United States as are now presented in behalf of South Carolina, and were then, as they will be now, made in vain.

The honorable Senator from South Carolina has told us that all human institutions, like these who formed them, contain within themselves the elements of their own destruction; and that our own Government is now exhibiting their operation. To this general philosophic remark I should not have objected but for its application. All the works of man are destined to decay; but while the American people shall remain true to themselves, their Government cannot be destroyed; for it contains, within itself, endless and ever-renewed energies, which must bring it out in triumph, and with Antæan vigor, in despite of every effort to overthrow it. From foreign force it has nothing to fear; it dreads nothing now from any section of this Union which shall seek to prevent the just operation of our laws by foreign intervention. Yes, sir, a foreign alliance, sought by any member of this confederacy, for the purpose of making war upon us, would be the means, under Heaven, of immediately rallying every patriot, of every political party, under the broad banner of the republic. Popular virtue, however, is the only safe basis of popular government. This is the "fountain from the which our current runs, or bears no life;" and I concede that the mortal blow to the liberties of this country may, at last, be struck by the hand of one who has been indebted to it for existence. The shaft which shall stretch the American eagle bleeding and lifeless in the dust must be feathered from his own bright pinions; and bitter will be the curses of men, in all ages to come, against the traitorous heart and the parricidal hand of

him who shall loose that fatal arrow from the string!

"Remember him, the villain, righteous Heaven,
In thy great day of vengeance! Blast the traitor,
And his pernicious counsels, who, for wealth,
For power, the pride of greatness, or revenge,
Would plunge his native land in civil war!"

FRIDAY, February 8.

Revenue Collection Bill—Nullification.

The Senate then proceeded again to the special order of the day, being the bill making further provision for the collection of the revenue.

Mr. WEBSTER said he wished to interrupt the course of the debate for a single moment, in order to set one matter right, if he could. Since a warm controversy was rising on this measure, he thought it but proper that we should understand between what parties the controversy existed.

Soon after the declaration of war, by the United States against England, an American vessel fell in at sea with one of England, and gave information of the declaration. The English master inquired, with no little warmth of manner and expression, why the United States had gone to war with England? The American answered him, that difficulties had existed, for a good while, between the two Governments, and that it was at length thought, in America, to be high time for the parties to come to a better understanding.

I incline to think, Mr. President, that a war has broken out here which is very likely, before it closes, to bring the parties to a better understanding. But who are the parties? Will you please to remember, sir, that this is a measure founded in Executive recommendation? The President, charged by the constitution with the duty of executing the laws, has sent us a message, alleging that powerful combinations are forming to resist their execution; that the existing laws are not sufficient to meet the crisis; and recommending sundry enactments as necessary for the occasion. The message being referred to the Judiciary Committee, that committee has reported a bill in compliance with the President's recommendation. It has not gone beyond the message. Every thing in the bill, every single provision, which is now complained of, is in the message. Yet the whole war is raised against the bill, and against the committee, as if the committee had originated the whole matter. Gentlemen get up and address us, as if they were arguing against some measure of a factious opposition. They look the same way, sir, and speak with the same vehemence, as they used to do when they raised their patriotic voices against what they called a "coalition."

Now, sir, let it be known, once for all, that this is an administration measure; that it is the President's own measure; and I pray gentlemen to have the goodness, if they call it hard names, and talk loudly against its friends, not

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to overlook its source. Let them attack it, if they choose to attack it, in its origin.

Let it be known, also, that a majority of the committee reporting the bill are friends and supporters of the administration; and that it is maintained in this House by those who are among his steadfast friends, of long standing.

It is, sir, as I have already said, the President's own measure. Let those who oppose it, oppose it as such. Let them fairly acknowledge its origin, and meet it accordingly.

The honorable member from Kentucky, who spoke first against the bill, said he found in it another Jersey prison ship; let him state, then, that the President has sent a message to Congress, recommending a renewal of the sufferings and horrors of the Jersey prison ship. He says, too, that the bill snuffs of the alien and sedition law. But the bill is fragrant of no flower except the same which perfumes the message. Let him, then, say, if he thinks so, that General Jackson advises a revival of the principles of the alien and sedition laws.

The honorable member from Virginia (Mr. TYLER) finds out a resemblance between this bill and the Boston port bill. Sir, if one of these be imitated from the other, the imitation is the President's. The bill makes the President, he says, sole judge of the constitution. Does he mean to say that the President has recommended a measure which is to make him sole judge of the constitution? The bill, he declares, sacrifices every thing to arbitrary power—he will lend no aid to its passage—he would rather “be a dog, and bay the moon, than such a Roman.” He did not say “the old Roman.” Yet the gentleman well knows, that if any thing is sacrificed to arbitrary power, the sacrifice had been demanded by the “old Roman,” as he and others have called him; by the President whom he has supported, so often and so ably, for the Chief Magistracy of the country. He says, too, that one of the sections is an English Botany Bay law, except that it is much worse. This section, sir, whatever it may be, is just what the President's message recommended. Similar observations are applicable to the remarks of both the honorable gentlemen from North Carolina. It is not necessary to particularize those remarks. They were in the same strain.

Therefore, sir, let it be understood, let it be known, that the war which these gentlemen choose to wage, is waged against the measures of the administration, against the President of their own choice. The controversy has arisen between him and them, and, in its progress, they will probably come to a distinct understanding.

Mr. President, I am not to be understood as admitting that these charges against the bill are just, or that they would be just if made against the message. On the contrary, I think them wholly unjust. No one of them, in my opinion, can be made good. I think the bill, or some similar measure, had become indispensable, and that the President could not do other-

wise than to recommend it to the consideration of Congress. He was not at liberty to look on and be silent, while dangers threatened the Union, which existing laws were not competent, in his judgment, to avert.

Mr. President, I take this occasion to say, that I support this measure, as an independent member of the Senate, in the discharge of the dictates of my own conscience. I am no man's leader; and, on the other hand, I follow no lead, but that of public duty, and the star of the constitution. I believe the country is in considerable danger; I believe an unlawful combination threatens the integrity of the Union. I believe the crisis calls for a mild, temperate, forbearing, but inflexibly firm execution of the laws. And, under this conviction, I give a hearty support to the administration, in all measures which I deem to be fair, just, and necessary. And in supporting these measures, I mean to take my fair share of responsibility, to support them frankly and fairly, without reflections on the past, and without mixing other topics in their discussion.

Mr. President, I think I understand the sentiment of the country on this subject. I think public opinion sets with an irresistible force in favor of the Union, in favor of the measure recommended by the President, and against the new doctrines which threaten the dissolution of the Union. I think the people of the United States demand of us, who are intrusted with the Government, to maintain that Government; to be just, and fear not; to make all and suitable provisions for the execution of the laws, and to sustain the Union and the constitution against whatsoever may endanger them. For one, I obey this public voice; I comply with this demand of the people. I support the administration in measures which I believe to be necessary; and, while pursuing this course, I look unhesitatingly, and with the utmost confidence, for the approbation of the country.

Mr. DALLAS said: The measure was recommended by the President in a message to Congress, which was referred to a standing committee of the House. That committee had reported this bill. It was an administration measure. Honorable gentlemen might be assured that, whatever language was applied to the bill, there were those who would not flinch from its responsibility. As a political man, he would say, that the President, in recommending this measure, would attach to himself, more strongly than ever, he would not say all the people of the country, or all the members of any political party, but the entire democracy of Pennsylvania. That democracy, with its fifty thousand majority, was ready to assume the responsibility of this act. However heavy might be the responsibility thrown on this measure, he would undertake to say, that his State was ready to assume its full share. He felt very anxious to treat this question as one of a grave and very important nature; and he proposed, with a view to the accomplishment of his task, with

as little labor to himself and tediousness to the Senate as was possible, to inquire, in the first place, what causes had led to this measure; second, whether we had the constitutional power to exact it; and, third, what were its probable tendency and effect. Many remarks had been made in the discussion, to which he should pay no attention; not from want of respect to those from whom they had fallen, but from want of comprehension to see their application to the subject.

What were the causes which led to the bill? It was undoubtedly drawn from analogous practice, but it was out of the ordinary course of legislation. The cause would be found in the proceedings of a popular convention held in South Carolina, and the legislative and executive acts following them. He was at all times prepared to treat the movements of a sovereign member of the Union with respect. They were not to be viewed as the factious proceedings of a political party. There was not the attitude of a changeling. The proceedings to which he referred resulted from the deliberate, and, he might say, the inflexible purpose of a highly respectable, although, in his apprehension, misguided State. He might be mistaken in representing the attitude of the State. He referred to the appearances everywhere existing in the State. This attitude might possibly be very soon changed, and, in that case, our proposed legislation in regard to it must be changed.

In relation, Mr. President, to nullification and secession, the question is, have we the constitutional power to pass this bill? In reference to the abrogation of the revenue laws by the State of South Carolina, I say that, as a matter of equal constitutional justice, the abrogation of those laws, according to the ordinance of South Carolina, abrogates them throughout the whole country. I say it is the necessary consequence of annulling them in that State. We are bound by our oaths, as Senators of the United States, not to acquiesce in or sanction such proceedings. We have no right to give a preference to the ports of one State over the ports of another. Sir, I put it to the honorable Senators present, whether a tacit acquiescence on the part of this body ought to be given to a regulation in South Carolina, which establishes free trade in the port of Charleston, thereby giving it a preference over any port in the United States. Would not a tacit acquiescence be a violation of our oaths as Senators? Let us look to the principle of morality as connected with this subject. There are sins of omission as well as sins of commission. He who is not prepared to do his duty, or refrains from it from a fear of consequences, acts in violation of it. No single State, no several States of this Union, can be expected to furnish all the revenue which the Government requires—the entire consumption of the country upon which the taxes are laid; these imposts should be borne equally by the entire mass of the American people. Sir, I protest that, wealthy as the people of the State of

Pennsylvania may be, pouring at all times their countless thousands into the public treasury—I protest against the Congress of the United States requiring one cent from the population of that State which is not fully required from others. If you do make it a matter of equal legislation—though we would cheerfully contribute millions to the general treasury in common with the other States—and yet show preference, in the slightest degree, to any portion of the Union, as a member of that great commonwealth I would protest against it. Charleston cannot be a free port, compatibly with the constitution of the United States. The instant that the legislation of this Congress shall proclaim it to be so, I shall likewise declare Philadelphia a free port. New York also, as well as every other port in the United States, will have a just right to be declared free. Sir, this effect is as unavoidable in practice, as it is sound in constitutional theory.

If the position now taken by South Carolina, in reference to Charleston, be sustained by the connivance of this body, your revenue is lost; not a part of the revenue, but the whole of your revenue, is gone; all that is collected by the Government of the United States by virtue of the acts which are nullified in South Carolina. How is it? I speak practically. If it be for one moment entertained that the duties collected under these laws are to be enforced in every port but the port of Charleston, and the other ports of South Carolina, will not the mercantile community throughout the whole of this country make these ports the great marts of distribution, through the coasting trade, to all the other States of the Union? As a matter of prudence, as a matter of necessity, they must do it, or they could not sustain themselves. They must direct their foreign correspondents to consign their cargoes to the port of Charleston, and other ports in South Carolina; and their ships would be employed in the whole coasting trade of the United States, to distribute their cargoes, free of all duties and exonerated from all tax, throughout all the ports of the country. No merchant in Pennsylvania could bear up against such a system, and therefore must become bankrupt. He could not consent to pay the duty which is now properly levied on these goods, while, in a neighboring State, the goods came in free of charge. As a matter of necessity, as well as of sound constitutional duty, if a free port were connived at in the State of South Carolina, you must make every port free. Your Government will then be without revenue; that will be the necessary consequence. I believe, sir, that that is a Utopian creature the world has never seen or heard of. We cannot exist without a revenue; we must have it for all the great purposes of the body politic. The extinguishment of the revenue is the necessary consequence of adopting this doctrine, and is, in itself, a superabundant, a strong, if not an imperative call on those who are managing the concerns of

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the American people, to prevent such a contingency.

They expel the judicial power of the United States out of the limits of the State of South Carolina; or, what is tantamount, pursue a course by which those laws are made imperative, yet inapplicable as far as regards the citizens of South Carolina. I will go still farther. They break in with a strong hand on the sanctity of personal rights, on the privilege of personal freedom, and on the liberty of conscience. Having duly weighed the phrases, I will show that they inflict disfranchisement, degradation, exile, or vassalage, indiscriminately, on all who dare to perform their duty as citizens of the United States, by enforcing and sustaining the laws.

He had heard often on this floor, and elsewhere, of that which had been characterized as a despotic majority, and of systems of oppression resulting from the tyranny of members. But, in this country, he had never known an exhibition, except that which he now witnessed, and which he hoped the virtue of the people of South Carolina would remove, where the fundamental principles of life, liberty, and law, were absolutely abrogated. He had said that there were positive, direct violations of the constitution involved in the measures of South Carolina. Yet it was alleged, on the face of those measures, that they were perfectly conformable to the constitution. If nullification be perfectly conformable to the constitution, we shall see that hereafter. If secession be conformable to the constitution, we shall see that hereafter. But even supposing these doctrines were in conformity with the constitution, still would they find no favor, if, in their progress, they trample on those rights which are recognized in the letter of the constitution. We know that there is an express provision in the constitution, that no State shall pass any law, fundamental or otherwise (and this ordinance of South Carolina is called by the head of the military power of that State a fundamental law), impairing the obligation of contracts. What says the ordinance of South Carolina? That all contracts which are now existing, or which may hereafter exist, for the purpose of carrying into effect the law providing for the collection of the duties on imports, shall be null and void, now and forever. Is that a violation of the constitution, or not? If this ordinance had confined itself to such contracts as might hereafter be formed, and had simply pronounced the law on which they might be based null and void, that would have been one thing. There might have been an argument founded on that subject. But it was not so; the ordinance declares that all contracts which have been, or may be entered into, shall be considered null and void. Did that comport with the provisions of the constitution to which he had referred? He had a dislike to all refinements on the constitution. He belonged to that admirable class of politicians who adhered to the plain meaning of its phraseology; and when the con-

stitution declared that no State should pass any law impairing the obligation of contracts, what could be said of a law of the State of South Carolina declaring existing contracts to be null and void? If the framers of the law relied upon the end to justify the means, they would find their reliance a bad one; for no end which was contemplated by them would justify such means.

But that which to him constituted another plain violation of the constitution, was accompanied by a direct encroachment on the sanctity of private rights, the sanctity of private property, and the sanctity of the courts of justice. We have a provision in the constitution which declares that every individual accused of crime "shall enjoy the right to a speedy and public trial by an impartial jury of the State and district wherein the crime shall have been committed." What was the meaning of this provision? That every individual juror shall be charged on his oath conscientiously to determine between the people and the party. It was a sound, settled, and unalienable right, which every individual so accused possessed, to have an impartial jury to try him. I ask (said Mr. D.) that there shall be an impartial jury in all criminal cases, let the matter of accusation be what it may; and they who would deprive an individual so accused of this right, would go far towards the establishment of arbitrary rule. Give me the trial by jury, in all its fairness, purity, and sanctity. We know that, in the formation of the constitution, the trial by jury was regarded as a subject deserving the most serious consideration of our greatest statesmen. It had always been considered as one of the most sacred order of privileges. Now what says the ordinance of South Carolina? That the accused shall not have it. It provides that the jury shall be sworn in advance. To do what? To hear and decide according to the evidence? No. To do impartial justice between the people and the accused? No. They were to be sworn in advance to convict the prisoner at the bar.

Am I right in this? Am I correct in that view of the question? An officer of the United States, executing the laws, renders himself amenable to the criminal law of South Carolina under this ordinance. He is taken before one of the State courts, where he is indicted for the offence. He gives the court and the prosecuting counsel to understand that he stands there as a citizen of the United States, and, as such, he claims, as a privilege given to him by the constitution and the principles of eternal and immutable justice, to challenge the constitutionality of the law. Can he do so? No. The ordinance is despotic. The jurymen are sworn, under that ordinance, and in the presence of the prisoner, to convict him.

In the course of my entire experience as a criminal counsel, (said Mr. D.,) and I have practised at the bar from early youth, I have never known any right so constantly appealed to in criminal cases as the constitutionality of the

law. Yet this ordinance says, you shall not have this right in South Carolina.

Here is involved a direct violation of the constitution. There were other parts of the constitution which were either in their spirit or their terms directly violated. This ordinance violated almost every contract or compact involved in that constitution. That instrument is full of mutual contracts between the States. Almost every provision implies, if it does not express, the compliance on the parts of the States with some contract. This ordinance withdraws them from the performance of these obligations. He would refer to one. The whole of these free, sovereign, and independent States had incorporated into their constitution a provision, from which no one can fly, to guaranty to every State a republican form of government. That provision is openly violated by this ordinance. What does the provision import? Look at it with the eye of common sense, and not through the medium of refinement; with the eye of those who framed the constitution, and of the people who ratified its provisions. "We, the people, agree to guaranty to the whole of this confederacy, and to all the States, a republican form of government." The Senate would see that if the ordinance of South Carolina were to prevail, this provision would be defeated, and rendered a mere nullity. Can we (said Mr. D.) guaranty a republican form of government to a State which disclaims our right to do so, which puts herself upon her sovereignty, and sets up for herself? If she does this, the constitution is worse than a farce. If South Carolina should desire to establish a monarchy, if a majority of the people of the State should so decide, and secede, we might the very next day see a dictator there, instead of a republican form of government. Thus, it would be shown that we had guaranteed a form of government which any State in the Union would have the power to abolish and abandon. In carrying out the ordinance of South Carolina, intended to nullify the revenue laws alone, the Legislature of the State had practically nullified an immense body of laws; and this mode of obtaining their object has been agreed to be constitutional and right.

They had nullified that important provision which secures the right of trial by an impartial jury.

He was going on to say, that the State of South Carolina, in nullifying the revenue laws, had nullified also an immense body of other laws. She had annulled the provisions of the judiciary act, prescribing the mode of appealing from the State tribunals to the federal courts, in all cases of law and equity arising under the constitution and laws of the United States.

But he would go farther. Not by the ordinance of South Carolina, but by the military arrangements of the Executive of the State, was that provision of the constitution which takes away from a State the power "to keep troops" signally violated. I take (said Mr.

D.) these documents to mean fairly and candidly what they express. I take their meaning in their fair and candid spirit. They who framed the ordinance and laws are entitled to this construction. They mean what they speak, and perhaps something more than they speak. And when we see the Executive of the State keeping troops in Charleston, it is obvious that this provision of the constitution is violated.

Again: These laws of the State of South Carolina contain principles which are subversive of those of the United States. Not only is the supremacy of our laws whistled to the wind, but the paramount character of our national allegiance is denied and overthrown.

Sir, (said Mr. D.,) I cannot find in the constitution, expressly or impliedly, a warrant for the course of South Carolina, and can therefore entertain no doubt of our constitutional power to enact this bill into a law. What are its tendencies and objects?

It is painful to see the true character of a legislative measure so strangely perverted or misconceived as this has been in the course of the present debate. We have it in print before us; it has lain upon our desks for many days, liable to the strictest examination; it hangs, inaccessible to vision, upon no lofty pillar; it has already travelled through the press, and has been canvassed by the people, in a variety of ways; it cannot now be deformed by mere rhetoric, nor buried under a mound of obloquy. Like the constitution on which I have been commenting, its words are plain and intelligible, and it is meant for the home-bred, unsophisticated understandings of our fellow-citizens. Who cannot perceive that, in every one of its provisions, in all its possible action, it is purely and simply defensive? It is illuminated with a declaration to which a Senator adverted, "let us alone, and we will let you alone." It is called into being by the ordinance, laws, and military demonstrations of South Carolina; and it cannot work, except as counteractive of avowed schemes to evade, resist, and nullify our laws. These schemes, it is agreed on all hands, must succeed, if we supinely fold our arms. If they are legitimate and just, let them succeed; if they are wrong, and subversive of our peace, our constitution, and our statutes, we must act, or give up the Government as incapable or unfit to be administered. The bill proposes to exhaust the civil and judicial means of carrying the laws into execution, before a single movement of a different kind be countenanced. When our legal custody of imported goods, under the duty act, is avowedly to be defeated by the extraordinary replevin law, can we do less than double the number and strength of our custom-house bolts and bars? When the avenues to do justice are poisoned or polluted by test oaths, can we do less than devise modes of reaching and entering her eternal temple, through purer and safer channels? And when the sublime terrors of the blue cockade and the palmetto button are paraded before our eyes,

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may we not be excused, if, in mere effort to keep our courage from oozing out at our fingers' ends, we permit the eagle to soar a little, only a little, and the stars and stripes to fan but gently our fainting spirits? Sir, (said Mr. D.,) law is alike odious and dangerous to those who wish to disobey it. Restraint is always arbitrary, dictatorial, despotic, in the vocabulary of those who desire to do as they please, and what they please. Yet are the people of this country strongly impressed with the conviction that, without law, there can be no liberty; and that they who preach disobedience to the one, are the most apt to disregard the other. There is something very oppressive about the course of control which this bill sanctions. Obedience to the revenue laws is to be enforced, first, through collectors, surveyors, and tide-waiters. Is not this, sir, quite unprecedented? Then, the interference of marshals, bailiffs, and tipstaves, is authorized. Who can imagine a greater extension of arbitrary power? Anon, impartial (aye, there's the rub) judges and jurors are provided. Is not this assuming a most belligerent and offensive attitude? But it gets worse and worse. If our laws are threatened with prostration, our officers with violence, and the community with riot, conflagration, and bloodshed, why then, the bill, in pure, unmixed, unmitigated despotism, arms the President with the overwhelming and exterminating power of issuing death warrants. No! his proclamation to disperse! Sir, the Boston port bill, the Jersey prison ship, the imperial ukase of desolation against Poland, was nothing to this; all their virtues concentrated could not equal a Presidential proclamation to enforce the payment of duties on a hog's-head of sugar! But enormity accumulates upon enormity; and this dreadful bill, denounced as a declaration of war, actually authorizes the officers of the customs, when the property under their charge shall be endangered by unruly combinations and force, to back out of the scrape, run away, and not stop until they have a river between themselves and their assailants! It is too much; the principles of '98, the holy cause of human freedom, the blood of our ancestors, the blue cockade and the palmetto button, cannot sanction or endure it.

Sir, (said Mr. D.,) this is, in plain reality, the outline of the bill, until we reach a point at which, for the purpose of protecting the lives, liberties, and properties of our fellow-citizens in South Carolina, it may become necessary to quell refractory and treasonable disobedience with the vigor and promptness of military or naval force. If the emergency be brought on by those who are bent upon throwing off their allegiance to the constitution and laws of the land, we may deplore, but we cannot avoid it; we must meet it with every possible forbearance, but with firmness. Ours will not be the responsibility for consequences, unless we fail in preparing adequately and effectively to prevent or ameliorate them. Nor have I the dread, which is entertained by others, of using,

on special occasions, and by authority of law, the regularly armed energy of the country. In its present reduced condition as to numbers, though admirable state as to discipline, more force could not be expected to be at any time, or on any point, at the disposition of the Executive, than Mr. Jefferson called out, under one of the precedents for the present law, to carry into effect the embargo.

Our Union (said Mr. D.) is an incalculable blessing. While it has lasted, what have we not accomplished, both in peace and in war? All the great objects of the human associations have been cultivated and attained with almost unexampled rapidity and ease. Liberty has been chastened, and made forever stable; science has been stormed in her hundred trenches, and mastered in all her ramparts; happiness has gently diffused itself throughout an immense population, taking its own ways over a boundless region of country; and wealth and power have gradually made the American people rivals of Greek and Roman fame. All the high aims, too, of a virtuous ambition have been reached in war. Independence consummated; renown everywhere acknowledged; glory, bright among the brightest! Yield away the constitution and the Union, and where are we? Frittered into fragments, and not able to claim one portion of the past as peculiarly its own! Sir, our Union is not merely a blessing; it is a political necessity. We cannot exist without it. I mean, that all of existence which is worth having must depart with it. Our liberties could not endure the incessant conflicts of civil and conterminous strife; our independence would be a real mockery; our very memories would turn to bitterness.

The Senate adjourned.

MONDAY, February 11.

Revenue Collection Bill—Nullification—Powers of the Federal Judiciary.

Mr. MILLER, of South Carolina, said: I shall now proceed to consider the ordinance.

Although I have shown that the people of South Carolina, having, in their sovereign character, put their construction on their rights, which stops all further consideration, except of an unconstitutional or belligerent nature, I will proceed to consider this question as subordinate to the constitution of the United States.

The first section declares the tariff laws null and void. The State has the right, consistent with the constitution, to make this declaration. It is the mere recital of a truth; only declaring what was originally so. But it is argued that the tariff is constitutional. If so, we are not now to decide that question; that is for another forum. We are not to expound and enforce our own law.

Is the tariff constitutional? This question must be decided in the affirmative, before you can enforce its provisions, or impugn its ordi-

nance. The power to protect domestic manufactures is not to be found in terms in the constitution. If it is to be found at all, it must be among the incidental powers. Thus, under the taxing power, the right to protect is set up. But it is the opinion of the great body of the people of South Carolina that the right to tax for revenue does not extend the right to tax for protection. It is said by the President, that, as the power to tax is in Congress, they can tax to any extent, without the right, on the part of any one, to question the motive; this I deny as a correct principle of constitutional construction. The people have the right to examine the motive. A limited power to tax can only be properly restrained by looking at the motive. Congress have the power to fix their own compensation; they may, under the taxing power, levy a tax on the people, intending to distribute the same among themselves; this could only be prevented by the people refusing to pay it, if the tax is laid with an improper motive. The true way to test this tax is to analyze the law, and then determine whether it is competent to levy a tax, to give the benefit thereof to the manufacturers. We have the treasury estimate of an extra amount of taxation, equal to six millions; take this sum, and then inquire, can Congress levy that amount, and give the same to the manufacturers? This right to levy a tax for protection is by some referred to the power to regulate commerce. By looking into the proceedings preliminary to the adoption of the Federal Government, to be found in the first volume of the laws of Congress, it will be there seen that this power was desired only to protect the navigating interest; the object being clearly to invigorate and encourage commerce, not to cripple and destroy it. I will not dwell on this subject. I delivered my opinions at length in the debate on the passage of the last tariff. This subject has undergone a most thorough investigation, and the united voice of the planting States pronounced the principle of protection unconstitutional. This is no new doctrine, for the first time broached by the convention of South Carolina. It has been pronounced from Virginia to Mississippi for the last eight years. But it has been urged that the revenue is repealed, as well as the protection; and, therefore, the ordinance is unconstitutional.

Sir, let us examine a little the validity of this objection to the ordinance. If it be partly contaminated, the whole is void. The fraudulent execution of a valid power makes the deed null. A dollar, part silver, part pewter, is a counterfeit. Where a wrong-doer mixes his goods with those of another, if there is no way to ascertain how much belongs to each, he who produces the difficulty must lose what belongs to him. Who could expect to be paid for sugar sold, if half were sand? It is the fault of him who practises the fraud, if he loses that which might have been valuable.

The third section declares that appeals shall not be taken from the State court. This con-

travenes the 25th section of the judiciary act, it is said.

It is well known that the right to take a case from the State court, by an appeal to the Supreme Court, has been contested in every form, ever since the enactment of this law.

"The judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish. The judges, both of the Supreme and inferior courts, shall hold their offices during good behavior, and shall, at stated times, receive for their services a compensation, which shall not be diminished during their continuance in office."

By this clause in the constitution, it is declared that the judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain.

The whole of the judicial power is thus vested in the United States court. By what authority can any power be transferred by Congress to the State courts? There is no such power.

"The judicial power shall extend to all cases in law and equity arising under this Constitution, the laws of the United States, and the treaties made, or which shall be made, under their authority; to all cases affecting ambassadors, other public ministers, and consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party; to controversies between two or more States; between citizens of different States; between citizens of the same State claiming lands under grants of different States; and between a State, or the citizens thereof, and foreign States, citizens, or subjects."

Having provided for the courts in the first clause, they have, in this one, provided for the jurisdiction, which is limited to all cases in law and equity arising under the constitution and laws of the United States. "Extend to," means, reach to, cover. These words do not give exclusive jurisdiction.

Judicial power is a generic term, including the Supreme Court and the inferior courts of the United States.

A State court is not an inferior court of the United States, and therefore no appeal can fairly be predicated on the proceedings of the State courts.

There is a subsequent clause, which provides that the State courts shall be bound by the constitution, and the laws made in pursuance thereof, and to treaties; this was the only check which was intended to secure the rights of persons under the constitution, laws, and treaties. There is no more ground to suppose State courts could not be trusted to execute such cases as might be brought in State courts, where rights were secured under the Federal Government, than the Governors.

Where fugitives may be demanded, the United States cannot control this officer; he may demand, or not; so the State officers must swear to support the constitution of the United States;

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if they do not, there is no way for this Government to compel them, unless by a resort to force, which was not intended.

The President relies on this clause: "This constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every State shall be bound thereby, any thing in the constitution or laws of any State to the contrary notwithstanding," to prove the State courts bound to sustain the United States laws. This is not denied; but not when those laws are in violation of the constitution; and it was not intended that the State judges should have their decisions questioned any more by federal judges, than federal judges should have their opinions questioned by State judges—both were to be final in their sphere. State courts are of general jurisdiction, nothing presumed out of their jurisdiction; federal courts limited. Every thing must be proven to give jurisdiction. Upon general principles, there would be more propriety in the State courts reversing the federal decisions, than the converse, because all courts of limited jurisdiction may be kept within their province by courts of general jurisdiction.

The President, in his proclamation, says, the laws, constitution, and treaties, are the supreme law of the land. This is not a correct view of the constitution. The President seems to consider a law above the constitution, and the treaties subject to it. Now, I understand it to be exactly different. The treaties are not required to be made in pursuance of the constitution, but the laws are.

A treaty may become necessary, impairing, in some instance, the constitution; and it is incident to the war power. The treaty-making power may fairly be considered as an independent substantive one, involving the highest political rights; and, when sanctioned by two-thirds of the Senate, binding on the constituted authorities of the United States and the States. And here I will remark, there seems no ground to suppose that the terms "law of the land," mean any thing more than that the constitution, and laws of the United States made in pursuance thereof, and treaties, are, by this clause, made the law of the land of the States, not of the United States; they have no land but the public land; the *lex terræ* referred to here is the local law; and the federal laws are made a part of the local law, and to be locally administered. So much for the argument of the Senator from Pennsylvania, who seeks to enlarge the powers of the United States by this clause.

The last clause, (of the ordinance,) the subject of secession, has been misunderstood by some, and misrepresented by others. The constitutionality of secession, or whether it shall be peaceable or not, is not involved in the principles laid down. It is predicated on the assumption of a belligerent posture by the Federal Government

towards South Carolina. It is not true that any attempt on the part of the General Government to enforce the revenue law is made the condition upon which the secession shall take place. The exception is a very broad one—any attempt, except by the "civil institutions" of the country. This most material qualification has been left out by the President, when adverting to this subject in the proclamation.

This latter clause is considered another violation of the constitution of the United States. It is only the declaration of a purpose, and not the execution of one. There is nothing to be considered but the abstractions contained therein. He said, upon the general right to secede, he would only state what his opinions were; the convention of South Carolina would determine for themselves. He did not think, as a political principle, the Federal Government could recognise this right, simply because no Government, unless it is so agreed upon in its constitution, can recognise that which may lead to its own dissolution. Social compacts, from their nature, imply a perpetuity; political compacts, such as our federal system, do so likewise. The constitution contains stipulations of a binding character to associate, but none to secede. Even admitting the most indubitable and extensive sovereignty to be recognised as belonging to the States, still the Federal Government could not admit the right of the States to secede. Yet if a State shall be constrained, under any circumstances, which I trust may never occur, to discuss this question, whether the circumstances upon which she places her rights will justify her, must of course be for her consideration, not mine. I can scarcely conceive of a state of facts in which secession would not follow a state of things making it immaterial to inquire whether it is peaceable or revolutionary. There are many things which Government cannot formally admit, which necessity forces it to acquiesce in. Thus, for instance, the absolute unqualified right to emigrate cannot be admitted by Government, since the admission of this right might operate exceedingly harsh on the residue of the community, if pushed to extremity; although the Government may have the right to guard against its own dissolution, or an unjust withdrawal of individuals from the common burdens, yet, still, this would be an arbitrary power, and must be resorted to only in the very last resort. To arrest a citizen and confine him, because he proposes to emigrate, would in most cases involve the Government in more trouble and expense than the detention would compensate for. A father cannot admit the right of a daughter to marry without his consent; yet, if she does marry, he must submit, and make the most of the new relationship of his child. So of suicide: no Government can admit the right of any one to take his own life; yet, if he will destroy himself, you cannot punish him.

I consider that a State has the same right to secede that a citizen has to emigrate. It is, in

fact, only a different mode of doing the same thing. Every citizen of a State may emigrate, and thus destroy the State; in that event, the United States could not take possession of the soil. The Federal Government cannot, in the abstract, admit of secession; nor can a State admit in the abstract the right of emigration, unless covenanted for, as in Connecticut. Yet if a State will secede, and a citizen will emigrate, there is no way to prevent them, but by the exercise of such arbitrary power as will shock the moral sense of a people accustomed to live in a free Government. To make war on a State to keep her in the Union, would be but the extension of the right of hanging a man to prevent his emigration. The States must keep their citizens by wise and liberal policy, wholesome and benevolent laws; and the United States must keep the States from seceding in the same way. The use of force may show the tyrant, but cannot prevent the act.

After all, this ordinance can be considered only in the nature of a lease entry, and ouster, to try title with the manufacturers.

I have thus attempted to prove that our ordinance does not, in any one instance, violate the constitution of the United States.

I had intended to comment on the provisions of this bill, but I will content myself by simply stating the positions. Other gentlemen have discussed them. I will only remark that the precedents referred to are laws requiring the use of force without the body of any State, and which in one instance the President refused to enter, because it was at war with the rights of the State and the first principles of liberty; I mean the Indian intercourse law in the case of Georgia.

The bill is unconstitutional, because it confers the war power on the President.—1st and 8th section of the constitution.

It subjects a citizen to punishment when he has been guilty of no crime, by seizing his property, and compelling him to pay cash duties.—5th article of amendment.

It violates the rights of the people of the State, so far as to give a preference to other ports.—9th section.

It deprives the citizens of South Carolina of the same rights as citizens of other States.—5th section.

It places the military of the United States above the civil authority of a State.

It confers on the President legislative powers to shut up the port of Charleston.

It gives federal courts jurisdiction of cases which do not arise under the laws and constitution.—2d section, 3d article.

It subjects, without trial or process of law, citizens to be arrested and deprived of their liberty.

It punishes the freedom of speech and of the press.

It authorizes the President to consider the Legislature of a State as a mob, and, by issuing his proclamation, to disperse them by force.

It imposes cruel and unjust fines, and indirectly forfeits the office of State officers, who must obey their own laws, or be disfranchised.

It substitutes armed force for the judicial tribunals of the country. It makes a district court an appellate court over the State courts, as to *habeas corpus*.

It compels persons to prosecute suits in the federal courts, where the court must only nonsuit the party for want of jurisdiction, or take jurisdiction upon the suggestion of a defendant, not warranted by law; thereby making the jurisdiction of the court to depend on the error or wickedness of all defendants.

I have attempted to prove that a State has a right to judge in the last resort of a violation of the constitution; that the proceedings of the State of South Carolina violate no provision of the constitution; that the means resorted to to protect her reserved rights are for her judgment alone; that, strong as they appear, they are warranted by the usurpations of this Government; that the questions presented to the descendants of a glorious ancestry, are liberty or slavery; the constitution with the Union, or the Union without a constitution; that we do not propose to secede, except this Government treats us as a public enemy, and drives us to the necessity of choosing between the halberd and the bayonet; that you have the physical right, not the moral one, to pass the bill now under consideration; that it is the assertion of your rights by force against an organized Government, and is therefore war; that, in utter contempt of the fundamental principles of the Government, in derogation of the theory of federalism itself, you substitute force for law, the sword for the ermine; that the sacred principles of justice require you to reduce the taxes, and relieve a patriotic and a suffering people from poverty and oppression.

Knowing as I do (and which is too well attested by the events of the day for any honorable Senator to be ignorant of) that a deep and settled sense of discontent pervades the great mass of the people of South Carolina; that the sober, calm, patriotic population of Virginia, South Carolina, Georgia, Alabama, and Mississippi, revolt at this system of protection, as an invasion of their constitutional rights, I cannot help expressing a deep solicitude that this bill, in its present offensive form, may not receive the sanction of the present Congress.

I shall not run any parallel between this controversy and the revolutionary struggle. The doctrine upon which we rest our rights do not involve such principles. Sir, I regret that suspicions of the personal hatred of the President towards the people of South Carolina should, in the opinion of her public authorities, have rendered it necessary to arm in protection of their personal rights, as well as in defence of their fundamental laws.

Sir, placing myself in a purely selfish position, there is no honorable Senator who has higher motives to preserve the peace and good order

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of society. I have nothing to gain, every thing to lose by civil commotion.

If the first clause of this bill is retained and passed, I have substantial, well-grounded fears of the consequences. The exception in the last clause in the ordinance is a very extensive one, yet I am not prepared to say this bill will make a case without the exception. If the Senator from Pennsylvania, or any other Senator, supposes that both or either of the representatives of South Carolina on this floor hold that State in the palm of their hands, it is a great mistake. *Non nostrum tantas componere lites.* The political power of that State is now in the hands of intelligent and independent planters, who think for themselves, and act accordingly. What course will be taken upon the passage of this bill, and omission to modify the tariff, I am not prepared to say. From an article in the leading paper at the capital of that State, one exercising much influence, and reflecting a respectable portion of public opinion, it seems but little attention will be paid to the interference of Virginia, at least in the opinion of that writer. This article, although written with great ability, I am sure does injustice to the motives of our elder and much respected sister. Be that as it may, every motive of benevolence, justice, and prudence, urge us to abstain from rash or unskilful legislation. Who will try the strength of the diamond by the hammer and the anvil? To that impertinent curiosity which wishes to test the virtue of the Union, I would refer to the fate of Anselmo. Believe, me sir, the experiment is a useless, and may prove a fatal one.

I fear interested and malevolent persons have lent themselves to the basest and most profligate purposes, in misrepresenting both the President and the dominant party in South Carolina to each other. I know that a very strong conviction prevails that the Chief Magistrate mixes up personal with public considerations on this topic; that he seeks to indulge in the passion of revenge, and imbrue his hands in the blood of some of the public men of that State. And I know, moreover, that before this shall happen, a generous and spirited population will come to their rescue. The people will not permit their public functionaries, acting under their command, and clothed with the panoply of their power, to be led like criminals to the charnel-house. Before this will take place, many a brave man will perish. What Senator can desire to see the States pass under the yoke? How long since this body has surrendered their independence to the high behests of the Executive? Balfour and Rawdon have not contended, in the pages of history, for the honor of the execution of Hayne. If blood and carnage flow from this bill, the Senate, in after times, will not be emulous of the share they had in passing it.

Sir, I do not deny the power to pass such a bill. Cain had the power to kill his brother. Elizabeth had the power to take the life of the

unfortunate Mary. The regicide court had the power to overrule the plea to its jurisdiction, by Charles the First. Bonaparte had the power to poison his prisoners at Jaffa. The question I make is, as to your right—moral right—by force, to compel the people of South Carolina to disobey their oaths and violate their most sacred obligations to their State Government.

It may be asked, if this bill be passed, what rights are left to South Carolina? She has the right to slink from her position, and, like a thievish slave, submit to the lash of a master. Nay, she has the further right left her—that right which Lucretia had, after she was dishonored. She has the right left her, which Virginius had, after the decree was pronounced which made his daughter a slave. She has the right which Leonidas had, to dispute the passage of the Persian army at the Straits of Thermopylæ. She has the right to resist unconstitutional taxation, as her fathers did; and she has the reserved right, which no Government can take away, nor tyranny destroy—the glorious right to live free or die.

Adjourned.

TUESDAY, February 12.

Modification of the Tariff—Compromise Bill.

Mr. CLAY rose, and addressed the Senate to the following effect:

I yesterday, sir, gave notice that I should ask leave to introduce a bill to modify the various acts imposing duties on imports. I, at the same time added, that I should, with the permission of the Senate, offer an explanation of the principle on which that bill is founded. I owe, sir, an apology to the Senate for this course of action, because, although strictly parliamentary, it is nevertheless out of the usual practice of this body; but it is a course which I trust that the Senate will deem to be justified by the interesting nature of the subject. I rise, sir, on this occasion, actuated by no motives of a private nature, by no personal feelings, and for no personal objects; but exclusively in obedience to a sense of the duty which I owe to my country. I trust, therefore, that no one will anticipate on my part any ambitious display of such humble powers as I may possess. It is sincerely my purpose to present a plain, unadorned, and naked statement of facts connected with the measure which I shall have the honor to propose, and with the condition of the country. When I survey, sir, the whole face of our country, I behold all around me evidences of the most gratifying prosperity—a prospect which would seem to be without a cloud upon it, were it not that through all parts of the country there exist great dissensions and unhappy distinctions, which, if they can possibly be relieved and reconciled by any broad scheme of legislation adapted to all interests, and regarding the feelings of all sections, ought

to be quieted; and, leading to which object, any measure ought to be well received.

In presenting the modification of the tariff laws which I am now about to submit, I have two great objects in view. My first object looks to the tariff. I am compelled to express the opinion, formed after the most deliberate reflection, and on a full survey of the whole country, that, whether rightfully or wrongfully, the tariff stands in imminent danger. If it should even be preserved during this session, it must fall at the next session. By what circumstances, and through what causes, has arisen the necessity for this change in the policy of our country, I will not pretend now to elucidate. Others there are who may differ from the impressions which my mind has received upon this point. Owing, however, to a variety of concurrent causes, the tariff, as it now exists, is in imminent danger; and if the system can be preserved beyond the next session, it must be by some means not now within the reach of human sagacity. The fall of that policy, sir, would be productive of consequences calamitous indeed. When I look to the variety of interests which are involved, to the number of individuals interested, the amount of capital invested, the value of the buildings erected, and the whole arrangement of the business for the prosecution of the various branches of the manufacturing art which have sprung up under the fostering care of this Government, I cannot contemplate any evil equal to the sudden overthrow of all those interests. History can produce no parallel to the extent of the mischief which would be produced by such a disaster. The repeal of the edict of Nantes itself was nothing in comparison with it. That condemned to exile and brought to ruin a great number of persons. The most respectable portion of the population of France were condemned to exile and ruin by that measure. But in my opinion, sir, the sudden repeal of the tariff policy would bring ruin and destruction on the whole people of this country. There is no evil, in my opinion, equal to the consequences which would result from such a catastrophe.

What, sir, are the complaints which unhappily divide the people of this great country? On the one hand, it is said by those who are opposed to the tariff, that it unjustly taxes a portion of the people, and paralyzes their industry; that it is to be a perpetual operation; that there is to be no end to the system, which, right or wrong, is to be urged to their inevitable ruin. And what is the just complaint, on the other hand, of those who support the tariff? It is, that the policy of the Government is vacillating and uncertain, and that there is no stability in our legislation. Before one set of books are fairly opened, it becomes necessary to close them, and to open a new set. Before a law can be tested by experiment, another is passed. Before the present law has gone into operation, before it is yet nine months old, passed as it was under circumstances of extraordinary de-

liberation, the fruit of nine months' labor—before we know any thing of its experimental effects, and even before it commences its operations, we are required to repeal it. On one side we are urged to repeal a system which is fraught with ruin; on the other side, the check now imposed on enterprise, and the state of alarm in which the public mind has been thrown, render all prudent men desirous, looking ahead a little way, to adopt a state of things, on the stability of which they may have reason to count. Such is the state of feeling on the one side and on the other. I am anxious to find out some principle of mutual accommodation, to satisfy, as far as practicable, both parties; to increase the stability of our legislation; and at some distant day, but not too distant, when we take into view the magnitude of the interests which are involved, to bring down the rate of duties to that revenue standard for which our opponents have so long contended. The basis on which I wish to found this modification, is one of time; and the several parts of the bill to which I am about to call the attention of the Senate, are founded on this basis. I propose to give protection to our manufactured articles, adequate protection, for a length of time, which, compared with the length of human life, is very long, but which is short in proportion to the legitimate discretion of every wise and parental system of government; securing the stability of legislation, and allowing time for a gradual reduction on one side, and on the other proposing to reduce the rate of duties to that revenue standard for which the opponents of the system have so long contended. I will now proceed to lay the provisions of this bill before the Senate, with a view to draw their attention to the true character of the bill.

Mr. C. then proceeded to read the first section of the bill. According to this section, he said, it would be perceived that it was proposed to come down to the revenue standard at the end of little more than nine years and a half, giving a protection to our own manufactures, which he hoped would be adequate, during the intermediate time. Mr. C. recapitulated the provisions of the sections, and showed by various illustrations, how they would operate.

Mr. C. then proceeded to read the comment at great length upon the second section of the bill. It would be recollected, he said, that at the last session of Congress, with a view to make a concession to the Southern section of the country, low priced woollens, (those supposed to enter into the consumption of slaves and the poorer classes of persons,) were taken out of the general class of duties on woollens, and the duty of them reduced to five per cent. It would be also recollected that at that time the gentlemen from the South had said that this concession was of no consequence, and they did not care for it; and he believed that they did not now consider it of any greater importance. As, therefore, it had failed of the purposes for which it was taken out of the common class, he

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thought it ought to be brought back again, and placed by the side of other descriptions of woollens, and made subject to the same reduction of duty as proposed by this section.

Having next read through the third section of the bill, Mr. O. said, that, after the expiration of a term of years, this section laid down a rule by which the duties were to be reduced to the revenue standard which had been so long and so earnestly contended for. Until otherwise directed, and in default of provision being made for the wants of the Government in 1842, a rule was thus provided for the rate of duties thereafter: Congress being, in the mean time, authorized to adopt any other rule which the exigencies of the country or its financial condition might require. That is to say, if, instead of the duty of 20 per cent. proposed, 15 or 17 per cent. of duty was sufficient, or 25 per cent. should be found necessary, to produce a revenue to defray the expenses of an economical administration of the Government, there was nothing to prevent either of those rates, or any other, from being fixed upon; whilst the rate of 20 per cent. was introduced to guard against any failure on the part of Congress to make the requisite provision in due season.

This section of the bill, Mr. O. said, contained also another clause, suggested by that spirit of harmony and conciliation which he prayed might preside over the councils of the Union at this trying moment. It provided (what those persons who are engaged in manufactures have so long anxiously required for their security) that duties shall be paid in ready money; and we shall thus get rid of the whole of that credit system into which an inroad was made in regard to woollens, by the act of the last session. This section further contained a proviso, that nothing in any part of this act should be construed to interfere with the freest exercise of the power of Congress to lay any amount of duties, in the event of war breaking out between this country and any foreign Power.

Mr. O. having then read the fourth section of the bill, said that one of the considerations strongly urged for a reduction of the tariff at this time was, that the Government was likely to be placed in a dilemma by having an overflowing revenue; and this apprehension was the ground of an attempt totally to change the protective policy of the country. The section which he had read, Mr. O. said, was an effort to guard against this evil, by relieving altogether from duty a portion of the articles of import now subject to it. Some of these, he said, would, under the present rate of duty upon them, produce a considerable revenue; the article of silks alone would probably yield half a million of dollars per annum. If it were possible to pacify present dissensions, and let things take their course, he believed that no difficulty need be apprehended. If, said he, the bill which this body passed at the last session of Congress, and has again passed at this session, shall pass the other House, and become a law,

and the gradual reduction of duties shall take place which is contemplated by the first section of this bill, we shall have settled two (if not three) of the great questions which have agitated this country—that of the tariff, of the public lands, and, I will add, of internal improvement also. For, if there should still be a surplus revenue, that surplus might be applied, until the year 1842, to the completion of the works of internal improvement already commenced; and, after 1842, a reliance for all funds for purposes of internal improvement should be placed upon the operation of the land bill, to which he had already referred.

It was not his object, Mr. O. said, in referring to that measure in connection with that which he was about to propose, to consider them as united in their fate, being desirous, partial as he might be to both, that each should stand or fall upon its own intrinsic merits. If this section of the bill, adding to the number of free articles, should become law, along with the reduction of duties proposed by the first section of the bill, it was by no means sure that we should have any surplus revenue at all. He had been astonished, indeed, at the process of reasoning by which the Secretary of the Treasury had arrived at the conclusion that we should have a surplus revenue at all, though he admitted that such a conclusion could be arrived at in no other way. But what was this process? Duties of a certain rate now exist; the amount which they produce is known; the Secretary, proposing a reduction of the rate of duty, supposes that the duties will be reduced in proportion to the amount of the reduction of the duty. Now, Mr. O. said, no calculation could be more uncertain than that.

Mr. O. would now take a view of some of the objections which would be made to the bill. It might be said that the act was prospective; that it bound our successors; and that we had no power thus to bind them. It was true that the act was prospective, and so was almost every act which we ever passed; but we could repeal it the next day. It was the established usage to give all acts a prospective operation. In every tariff law there were some provisions which go into operation immediately, and others at a future time. Each Congress legislated according to their own views of propriety; their acts did not bind their successors, but created a species of public faith which would not rashly be broken. But, if this bill should go into operation, as he hoped, even against hope, that it might, he had not a doubt that it would be adhered to by all parties. There was but one contingency which would render a change necessary, and that was the intervention of a war, which was provided for in the bill. The hands of Congress were left untied in this event, and they would be at liberty to resort to any mode of taxation which they might propose. But, if we suppose peace to continue, there would be no motive for disturbing the arrangement, but, on the contrary, every motive to carry it into effect. In the next place, it will be objected to

the bill, by the friends of the protective policy, (of whom he held himself to be one, for his mind was immutably fixed in favor of that policy,) that it abandoned the power of protection. But, he contended, in the first place, that a suspension of the exercise of the power was not an abandonment of it; for the power was in the constitution according to our theory; was put there by its framers, and could only be dislodged by the people. After the year 1843, the bill provided that the power should be exercised in a certain mode. There were four modes by which the industry of the country could be protected: First, the absolute prohibition of rival foreign articles. That was totally unattempted by the bill; but it was competent to the wisdom of the Government to exert the power whenever they wished. Second, the imposition of duties in such a manner as to have no reference to any object but revenue. When we had a large public debt, in 1816, the duties yielded thirty-seven millions, and paid so much more of the public debt; and subsequently, they yielded but eight or ten millions, and paid so much less of the debt. Sometimes we had to trench on the sinking fund. Now, we had no public debt to absorb the surplus revenue, and no motive for continuing the duties. No man can look at the condition of the country, and say that we can carry on this system, with accumulating revenue, and no practicable way of expending it. The third mode was attempted last session, in a resolution which he had the honor to submit last year, and which, in fact, ultimately formed the basis of the act which finally passed both Houses. This was to raise as much revenue as was wanted for the use of the Government, and no more; but to raise it from the protected, and not from the unprotected articles. He would say, that he regretted, most deeply, that the greater part of the country would not suffer this principle to prevail. It ought to prevail; and the day, in his opinion, would come, when it would be adopted as the permanent policy of the country. Shall we legislate for our own wants, or those of a foreign country? To protect our own interests, in opposition to foreign legislation, was the basis of this system. The fourth mode in which protection could be afforded to domestic industry was, to admit, free of duty, every article which aided the operations of the manufacturers. These were the four modes for protecting our industry; and to those who say that the bill abandons the power of protection, he would reply, that it did not touch that power; and that the fourth mode, so far from being abandoned, is extended and upheld by the bill. The most that can be objected to the bill by those with whom he had co-operated to support the protective system was, that, in consideration of nine and a half years of peace, certainty, and stability, the manufacturers relinquished some advantages which they now enjoyed. Mr. C. concluded with asking leave to introduce his bill.

Mr. FORSYTH presumed, he said, that the motion for leave, in its present stage, was a subject of discussion; if so, he begged leave to say a word or two in opposition to it. He opposed the introduction of the bill as a revenue measure, and upon it demanded the yeas and nays, which were ordered.

Mr. HOLMES confessed that this was the first time but one that he ever heard an objection made to a motion of leave. Common courtesy required that any Senator should have leave to introduce any bill he pleased. He did not know whether he should like the principles of this bill, but he would like to have it on the table, and see whether he would approve of it.

Mr. FORSYTH replied, that if the Senator from Kentucky had not explained the provisions of the bill, and shown them to be unconstitutional, he should have no objections to its introduction.

Mr. POINDEXTER returned his hearty thanks to the Senator from Kentucky for introducing this bill, and he hoped he would have leave.

Mr. CALHOUN would make but one or two observations. Entirely approving of the object for which this bill was introduced, he should give his vote in favor of the motion for leave to introduce it. He who loves the Union must desire to see this agitating question brought to a termination. Until it should be terminated, we could not expect the restoration of peace or harmony, or a sound condition of things, throughout the country. He believed that to the unhappy divisions which had kept the Northern and Southern States apart from each other, the present entirely degraded condition of the country (for entirely degraded he believed it to be) was solely attributable. The general principles of this bill received his approbation. He believed that if the present difficulties were to be adjusted, they must be adjusted on the principles embraced in the bill, of fixing ad valorem duties, except in the few cases in the bill to which specific duties were assigned. He said that it had been his fate to occupy a position as hostile as any one could, in reference to the protecting policy; but if it depended on his will, he would not give his vote for the prostration of the manufacturing interest. A very large capital had been invested in manufacturers, which had been of great service to the country; and he would never give his vote to suddenly withdraw all those duties by which that capital was sustained in the channel into which it had been directed. But he would only vote for the ad valorem system of duties, which he deemed the most beneficial and the most equitable. At this time, he did not rise to go into a consideration of any of the details of this bill, as such a course would be premature, and contrary to the practices of the Senate. There were some of the provisions which had his entire approbation, and there were some to which he objected. But he looked upon these minor points of difference as points in the settlement of which no difficulty would occur, when gentlemen met together in that

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Revenue Collection Bill—Tariff Resolutions.

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spirit of mutual compromise which, he doubted not, would be brought into their deliberations, without at all yielding the constitutional question as to the right of protection.

Mr. WEBSTER said, that as, by its title, the bill appeared to be merely a bill to modify the existing revenue laws, it could hardly be rejected as a bill for raising revenue, which ought to originate in the other House, since there are many particulars in which all the existing revenue laws might be modified, without raising more or less revenue. As the bill has not been read, (said Mr. W.,) we seem to know no more of it, regularly, than its title purports. That title describes a bill, which may constitutionally originate in the Senate: I shall, therefore, vote for the leave.

But I feel it my duty, Mr. President, to say a word or two upon the measure itself. It is impossible that this proposition of the honorable member from Kentucky should not excite in the country a very strong sensation; and in the relation in which I stand to the subject, I am anxious, at an early moment, to say, that as far as I understand the bill, from the gentleman's statement of it, there are principles in it to which I do not at present see how I can ever concur. If I understand the plan, the result will be a well-understood surrender of the power of discrimination, or a stipulation not to use that power, in the laying duties on imports, after the eight or nine years have expired. This appears to me to be matter of great moment.

Mr. FORSYTH expressed regret that he should have created so much discussion. He did not oppose the object of the bill; he would not have raised his voice on the subject, if the motion did not call on him to violate a provision of the Constitution of the United States. A bill of this character, however, ought to pass first under the consideration of the immediate representatives of the people. He refused leave to introduce this bill, because the constitution forbids that the first action on a bill of this character should be in the Senate.

The call for the yeas and nays was then, with the assent of the Senate, withdrawn.

The question was then taken on granting leave to introduce the bill; which was decided in the affirmative, and the bill read the first time.

Mr. FORSYTH moved that the bill be now read a second time, with a view to its commitment.

This motion requires the unanimous consent of the Senate.

Mr. DICKERSON objected, on the ground that it was too important a bill to be hurried through its stages.

On motion of Mr. FORSYTH, the bill was ordered to be printed.

Revenue Collection Bill.

The Senate then proceeded to consider the bill to provide further for the collection of the duties on imports.

The question being on the motion of Mr.

FORSYTH to strike out the 3d section of the bill—

It was decided by yeas 5, nays 28.

On motion of Mr. CALHOUN, the bill, as amended, was ordered to be printed.

WEDNESDAY, February 18.

Tariff Resolutions.

Mr. WEBSTER rose, and stated that, in pursuance of the notice which he had given yesterday, he wished now to lay on the table some resolutions, expressive of his opinions on the important subjects in relation to which a bill was presented to the Senate yesterday.

The resolutions were then read, as follows:

Resolved, That the annual revenues of the country ought not to be allowed to exceed a just estimate of the wants of the Government; and that as soon as it shall be ascertained, with reasonable certainty, that the rates of duties on imports, as established by the act of July, 1832, will yield an excess over those wants, provision ought to be made for their reduction; and that, in making this reduction, just regard should be had to the various interests and opinions of different parts of the country, so as most effectually to preserve the integrity and harmony of the Union, and to provide for the common defence, and promote the general welfare of the whole.

But, whereas it is certain that the diminution of the rates of duties on some articles would increase, instead of reducing, the aggregate amount of revenue on such articles; and whereas, in regard to such articles as it has been the policy of the country to protect, a slight reduction on one might produce essential injury, and even distress, to large classes of the community, while another might bear a larger reduction without any such consequences; and whereas, also, there are many articles the duties on which might be reduced, or altogether abolished, without producing any other effect than the reduction of revenue: Therefore,

Resolved, That, in reducing the rates of duties imposed on imports by the act of the 14th of July aforesaid, it is not wise or judicious to proceed by way of an equal reduction per centum on all articles; but that as well the amount as the time of reduction ought to be fixed, in respect to the several articles distinctly, having due regard, in each case, to the questions whether the proposed reduction will affect revenue alone, or how far it will operate injuriously on those domestic manufactures hitherto protected; especially such as are essential in time of war, and such, also, as have been established on the faith of existing laws; and, above all, how far such proposed reduction will affect the rates of wages and the earnings of American manual labor.

Resolved, That it is unwise and injudicious, in regulating imposts, to adopt a plan, hitherto equally unknown in the history of this Government, and in the practice of all enlightened nations, which shall, either immediately or prospectively, reject all discrimination on articles to be taxed, whether they be articles of necessity or of luxury, of general consumption or of limited consumption; and whether they be, or be not, such as are manufactured and produced at home; and which shall confine all duties to one equal rate per centum on all articles.

Resolved, That since the people of the United

States have deprived the State Governments of all power of fostering manufactures, however indispensable in peace or in war, or however important to national independence, by commercial regulations, or by laying duties on imports, and have transferred the whole authority to make such regulations, and to lay such duties, to the Congress of the United States, Congress cannot surrender or abandon such power, compatibly with its constitutional duty, and therefore,

Resolved, That no law ought to be passed on the subject of imposts, containing any stipulation, express or implied, or giving any pledge or assurance, direct or indirect, which shall tend to restrain Congress from the full exercise, at all times hereafter, of all its constitutional powers, in giving reasonable protection to American industry, countervailing the policy of foreign nations, and maintaining the substantial independence of the United States.

On motion of Mr. DALLAS, the resolutions were ordered to be printed.

Tariff Bill.

The bill to modify the act of the 14th of July, 1832, and all other acts imposing duties on imports, was read a second time.

Mr. DICKERSON moved to refer the bill to the Committee on Manufactures.

Mr. GRUNDY said he would move the reference to a select committee of seven, and expressed his hope that the Senator from Kentucky [Mr. CLAY] would be placed at the head of that committee.

Mr. CLAY expressed indifference as to the committee to which the bill should be referred. He would be willing to send it to the Committee on Manufactures, with whom, he took pleasure in saying, he had always acted harmoniously, and for the members of which he felt so much personal respect; yet, for the reasons which had been urged by the gentleman from Tennessee, he considered that it would be most expedient to send the subject to the committee for which that gentleman had moved. This did not seem to be a measure for the benefit of any exclusive interest, but for the promotion of the general harmony. He concluded with recording the motion for a select committee.

Mr. CALHOUN expressed his gratification that the gentleman from Tennessee had made the motion, and that the gentleman from Kentucky had acquiesced in it. The subject belonged to no existing committee whatever. It was a project for restoring peace and harmony to the country; and he hoped that the motion for a select committee would prevail.

The motion to refer the bill to the Committee on Manufactures, was decided by yeas 12, nays 26.

WEDNESDAY, February 13.

Presidential Election—Counting the Votes.

A message was received from the House of Representatives, stating that the House was ready to proceed to the counting of the votes

given for President and Vice President, and were waiting to receive the Senate.

Mr. GRUNDY moved that the Senate proceed to the House of Representatives, for the purpose of performing the duties referred to in the message; which motion having been agreed to,

The Senate, preceded by the President, *pro tempore*, attended the hall of the House of Representatives; and, after having performed the duties which called them there, returned, at twenty minutes past two o'clock, to their seats in the Senate; when

Mr. GRUNDY offered the following resolution, which was considered and adopted:

Resolved, That a committee of one member of the Senate be appointed, to join a committee of two members of the House of Representatives, to be appointed by the House, to wait on ANDREW JACKSON, of Tennessee, and to notify him that he has been duly elected President of the United States for four years, commencing on the fourth day of March next; and also, to notify MARTIN VAN BUREN, of New York, that he has been duly elected Vice President of the United States for four years, commencing on the fourth day of March next.

Revenue Collection Bill—Nullification.

Mr. MOORE said, he rose to make a few remarks on the bill. He rose with no hypocritical pretence of an extraordinary attachment to the Union. As members of this body, said he, we have all sworn to support the constitution, and I concede to each as earnest a desire to fulfil this duty as I know that I myself feel. I, sir, am proud to be an American citizen; I am proud to be a citizen of the State of Alabama; I am proud of the honor of a seat in this Senate. But much as I prize this name, and proud as I am of the honor assigned to me by the partiality and indulgence of my fellow-citizens, I should be false to them, to their interests, and to myself, if I could permit this bill to become a law without having done all in my power to prevent it.

Much has been said about the course which South Carolina has adopted. I do not feel called upon to defend either her principles or her action; that task will be performed by those to whom she has assigned that duty.

In my opinion this bill presents another issue, which involves directly the rights, the interests, and the liberty of my constituents. It proposes to clothe the President of the United States with dictatorial and discretionary powers. It does more; it proposes to place the issue of civil war upon the discretion of a captain of a revenue cutter, the caprice of a young lieutenant fresh from school, or the folly of a tide-waiter.

It makes the President of the United States a national dictator, and converts the agents who may be intrusted with the execution of his supreme discretion into petty chieftains, who are

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required to trample upon the judicial authorities of the States. You see it places the military above the civil authority, and substitutes a military despotism for the peaceful administration of the laws.

But we are told by the honorable chairman of the committee who reported this bill, (Mr. WILKINS,) that "we may safely intrust these extraordinary powers to the hands of Andrew Jackson, because he assures us Andrew Jackson never has abused power." I congratulate the honorable gentleman upon the extent of his faith. It is at least equal to "the grain of mustard seed," and it may yet accomplish miracles. The honorable gentleman should remember that this bill proposes to authorize the President to transfer these extraordinary powers to his agents. Great as the President is, powerful as we all know him to be, he must employ agents to execute his will; and it necessarily follows that that discretion with which you clothe the President must be by him transferred to his agents, to the commanders of his army and his navy, to the collectors of the revenue, to his marshals and his bailiffs. I am not disposed to make a question with the gentleman about his faith in the President; but I would ask him, are you prepared to grant such powers on the faith which you repose in such agents as these? But, sir, away with such solemn trifling. I consider this a question of liberty, and not of faith; and I can assure him, that if his constituents, the free laborers, of which we have heard so much, permit their representatives to bring their liberties as a faith offering, a propitiation to conciliate the good will of the President, those of whom I am an unworthy representative place theirs above all price. Sir, the people of Alabama are as much devoted to this Union, as established by our fathers, as the people of any other State can be; they are devoted to the Union, but they are devoted to it, not as the means of oppression, not as the source of civil war, but as the palladium of liberty. I have said, sir, that I am not called upon to defend either the principles or the action of South Carolina. I have said that this bill makes another issue, which involves directly the rights, interests, and liberty of my constituents. The gentleman tells us about the free labor of the North; and they tell us that they never will consent that this free labor of the North shall be reduced to the same condition as the slave labor of the South. Do gentlemen forget that there are free laborers in the South as well as in the North? Do gentlemen forget that the object of this constitution and of our Union was to secure equal rights, peace, and happiness to all our citizens? If they concede this, (and none will be so lost to all sense of propriety as to deny the truth of the assertion,) what right has the free laborer of the North to demand that his labor shall be protected at the expense of the free labor, or even the slave labor of the South? Yes, sir, I say of the slave labor of the South. For, sir, with us, labor is

labor; it matters not whether it be of the slave or of the free, of the bondsman or his master; in fact, there can be none in theory, but in the minds of those hypocritical pretenders in philanthropy, who would emancipate our slaves under the pretence that "all men are born free and equal," and butcher their masters with mercenary bayonets; but as the gentleman from Pennsylvania who spoke last (Mr. DALLAS) does not like the word mercenary, I will say the bayonets of power; because we insist that it never was intended by the framers of the constitution to tax the slave labor of the South for the purpose of protecting "the free labor of the North." Your northern gentlemen have a holy horror at holding a fellow-creature in bondage, but they feel no horror at the idea of sending an army to compel the owners of these slaves to pay over all the profits of these slaves into the pockets of the northern manufacturers and capitalists. They consider slavery a most heinous offence against God and man; yet they call upon us, in the name of all that is dear in religion and morals, to authorize them to overrun South Carolina with fire and sword, unless she will pay over to them the profits of her slave labor. Or, in other words, they are too pious, too benevolent, to own slaves themselves; but they ask us very modestly, sir, to convert the owners of slaves in South Carolina into their overseers, superintending cotton fields and rice plantations for their benefit.

Yes, Mr. President, disguise this matter as you will, this is the question. We have long seen the tendency and object of the tariff policy. We deny your right to protect the free labor of the North, at the expense of the slave labor of the South. With us there is no distinction between the labor of the slave and the labor of the free, of the bondsman and his master.

The God of nature, nor the constitution, which alone has the right to determine what shall be law upon this subject, has made no distinction, and we will not permit this Government to do it; to yield such a power would be to permit the free laborers of the North to convert the masters of our slaves into the slaves of Northern masters. And it is because I believe the bill involves this question, and because I know the people of Alabama have a common interest with the people of South Carolina in resisting this oppression, that I am opposed to this bill.

We hear gentlemen loud in the praises of the constitution, vociferous in their professions of attachment to the Union. I can tell them, nay, they have been told again and again, how they can maintain the constitution and preserve the Union. Reject this bill, and modify the tariff; do justice, and the necessity for force will cease.

But some gentlemen seem to think they must support the President. I can understand why the Senators representing manufacturing States, and particularly those who never had any constitutional scruples upon the question of power, should support this bill. Although we are told

this measure originated with the Executive, I can find no apology in that suggestion, which could justify me as a Senator representing a Southern State—yes, sir, a slave-holding, anti-tariff State—if I were so far to sacrifice their interest as to vote for this bill. I know, sir, that the President has a commanding popularity among my people; the honest, unsuspecting planters and laborers of Alabama gave him their confidence when he was a plain unpretending planter like themselves. But they voted for Andrew Jackson to be the President of a free people, subject to all the restraints of the constitution; they did not expect that he would ask to be clothed with dictatorial powers, much less that he would march at the head of a standing army for the purpose of enforcing, at the point of the bayonet, the collection of odious, unjust, unequal, and unconstitutional taxes.

But I warn gentlemen to pause. Who is it that are now so anxious to clothe the President with these new, undefined powers? Are they not his old enemies? Are they not his late opponents? But, sir, I give them my thanks. I am the representative of a brave, generous, and, therefore, a confiding people. Yet, there are in Alabama, as there are in all other States, "waiters upon Providence"—men whose highest ambition it is to worship power.

The policy of our adversaries has been to purchase these false guides, and weaken our resistance by internal dissensions.

If gentlemen will disregard all our entreaties; if, instead of claiming the promise made the peacemakers, they still persist in the exercise of injustice and oppression; if, instead of reducing the duties and giving us peace, harmony, strength, and brotherly love, they force upon us this bill, they will do us one favor, they will force us to be united; they will unbind the eyes of our people; they will then see who it is that "have sung peace, peace, when there was no peace." I again would say to those gentlemen who suppose they are to reap a golden harvest of profit or of honors from this measure, "You may have the power to pass your bill through this House; you may have the physical strength and the same generous majority by which you have passed your tariffs; but you cannot enforce it. I defy you, with all the sycophants, hirelings, and office-seekers now waiting for command. You may sweep the streets of your cities, and empty your workshops and manufacturing establishments; at this enlightened hour, and in this free country, you cannot enforce it. We know our rights, and, knowing them, dare maintain and defend them."

THURSDAY, February 14.

Revenue Collection Bill—Nullification—Vindication of the Virginia Resolutions of 1798-'99.

The Senate then proceeded to the consideration of the special order, being the bill to pro-

vide further for the collection of the duties on imports.

Mr. RIVES, of Virginia, said, the proceedings of my State, on another occasion of far higher importance, have been so frequently referred to in the course of this debate, as an example to justify the present proceedings of South Carolina, that I may be excused for saying something of them. What, then, was the conduct of Virginia in the memorable era of '98 and '99? She solemnly protested against the alien and sedition acts, as "palpable and alarming infractions of the constitution;" she communicated that protest to the other States of the Union, and earnestly appealed to them to unite with her in a like declaration, that this deliberate and solemn expression of the opinion of the States, as parties to the constitutional compact, should have its proper effect on the councils of the nation in procuring a revision and repeal of the obnoxious acts. This was "the head and front of her offending"—no more. The whole object of the proceedings was, by the peaceful force of public opinion, embodied through the organ of the State Legislatures, to obtain a repeal of the laws in question, not to oppose or arrest their execution while they remained unrepealed. That this was the true spirit and real purpose of the proceeding, is abundantly manifested by the whole of the able debate which took place in the Legislature of the State on the occasion. All the speakers, who advocated the resolutions which were finally adopted, distinctly placed them on that legitimate, constitutional ground. I need only refer to the emphatic declaration of John Taylor, of Carolina, the distinguished mover and able champion of the resolutions. He said "the appeal was to public opinion; if that is against us, we must yield." The same sentiment was avowed and maintained by every friend of the resolutions throughout the debate.

But, sir, the real intentions and policy of Virginia were proved, not by declarations and speeches merely, but by facts. If there ever was a law odious to a whole people by its daring violation of the fundamental guaranties of public liberty, the freedom of speech and freedom of the press, it was the sedition law to the people of Virginia. Yet, amid all this indignant dissatisfaction, after the solemn protest of the legislature in '98, and the renewal of that protest in '99, this most odious and arbitrary law was peaceably carried into execution in the capital of the State, by the prosecution and punishment of Callender, who was fined and imprisoned for daring to canvass the conduct of our public men, (as Lyon and Cooper had been elsewhere,) and was still actually imprisoned when the Legislature assembled in December, 1800. Notwithstanding the excited sensibility of the public mind, no popular tumult, no legislative interference, disturbed, in any manner, the full and peaceable execution of the law. The Senate will excuse me, I trust, for calling their attention to a most forcible commentary on the true character of the Virginia proceedings of '98 and

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'99, (as illustrated in this transaction,) which was contained in the official communication of Mr. Monroe, then Governor of the State, to the Legislature, at its assembling in December, 1800. After referring to the distribution which had been ordered to be made among the people of Mr. Madison's celebrated report of '99, he says: "In connection with this subject, it is proper to add, that, since your last session, the sedition law, one of the acts complained of, has been carried into effect in this commonwealth by the decision of a federal court. I notice this event, not with a view of censuring or criticizing it. The transaction has gone to the world, and the impartial will judge of it as it deserves. I notice it for the purpose of remarking that the decision was executed with the same order and tranquil submission on the part of the people, as could have been shown by them, on a similar occasion, to any the most necessary, constitutional, and popular acts of the Government." "The General Assembly and the good people of this commonwealth have acquitted themselves to their own consciences, and to their brethren in America, in support of a cause which they deem a national one, by the stand which they made, and the sentiments they expressed of these acts of the General Government; but they have looked for a change, in that respect, to a change in the public opinion, which ought to be free, not to measures of violence, discord, and disunion, which they abhor."

It is thus, sir, that the men of '98 and '99 then understood their own proceedings, and that the honored few, who survive, still understand them. Let us now, sir, look at the language of the proceedings themselves, and see if that fairly warrants any other construction. The proceedings of the Legislature of Virginia in '98 consisted of a series of resolutions, eight in number. The third resolution, which is the one that has been most frequently appealed to, asserts the right of the States, as parties to the compact, in cases of a deliberate, palpable, and dangerous exercise by the General Government of powers not granted by the compact, "to interpose for arresting the progress of the evil, and for maintaining, within their respective limits, the authorities, rights, and liberties, appertaining to them." The seventh resolution, after expressing the warm attachment of the people of Virginia to the Union and the constitution, proceeds: "The General Assembly doth solemnly appeal to the like dispositions in the other States, in confidence that they will concur with this commonwealth in declaring, as it does hereby declare, that the acts aforesaid" (the alien and sedition acts) "are unconstitutional, and that the necessary and proper measures will be taken by each for co-operating with this State in maintaining unimpaired the authorities, rights, and liberties reserved to the States respectively or to the people." Now, sir, it is a fundamental rule of interpretation, in regard to acts and documents of every description, that, in order to arrive at their true sense and mean-

ing, the whole must be taken together; the parts must be construed in reference to each other. The two resolutions just cited, then, must be considered in connection with each other. The former asserts the right of the States to interpose for maintaining the authorities, rights, and liberties appertaining to the respective States. But in what manner, by what measures, are these rights and liberties of the States to be maintained? The latter of the two resolutions gives the answer: "by necessary and proper measures to be taken by each for co-operating with Virginia in maintaining unimpaired the authorities, rights, and liberties reserved," &c. The measures were to be not only necessary and proper, but such as admitted of co-operation; measures to be "taken by each for co-operating with Virginia in maintaining," &c. This language obviously excludes all measures which have their full and complete effect within the limits of the respective States. Kentucky could not, for example, co-operate with Virginia in an act by which Virginia should nullify a law of the United States within her own limits; because, there, the measure would receive its full and complete effect by the separate and independent action of Virginia. Such measures, therefore, must have been contemplated by the resolutions of Virginia, as, although adopted separately by each of the States in the inception, were yet to have their final effect beyond their respective limits, in being directed to a common object, for the attainment of which the States could co-operate with each other. That object in the case of the alien and sedition acts, was the repeal of the obnoxious laws; and the measures by which it was to be sought were to be legislative protests against their unconstitutionality, instructions to the representatives of the States in Congress, direct remonstrance to Congress, and such other modes of interposition as might be deemed most eligible to bring the public opinions of the States to bear, with united weight, on the councils of the Union.

The important question which has arisen on the Virginia resolutions of '98, is not what modes of redress might be justifiable in extreme cases, and on the principles of natural right, but what measures of State interposition were deemed to be consistent with the constitution itself. Besides the evidence on this point furnished by a proper attention to the resolutions themselves, as just explained, the question is conclusively settled by the subsequent report of '99, which is known to have been drawn by the pen of Mr. Madison, then a member of the Virginia Legislature, as the previous resolutions of '98 were also from him, though he was not then a member of that body. The report, in reviewing that part of the 7th resolution already cited, which refers to the necessary and proper measures to be taken by the States for co-operating with each other in maintaining their rights, specifies the various measures of that sort which are deemed to be "within the limits

of the constitution." After insisting that a declaration by a State Legislature of the unconstitutionality of an act of Congress, and an appeal to other States to concur in the declaration, is a measure of State interposition "within the limits of the constitution," the report also mentions, as being of a like character, a direct remonstrance of the Legislatures of the States to Congress, instructions to their respective Senators to propose an explanatory amendment of this constitution, and applications from themselves to Congress for the call of a convention. At the end of this specification, the report adds: "These several means, though not equally eligible in themselves, nor probably to the States, were all constitutionally open for consideration." As the occasion called for a full exposition of the measures of State interposition, deemed to be "within the limits of the constitution," the specification here made must be considered, according to a well-known rule of interpretation, as excluding in the minds of the writer and those who adopted the report, all others not specified from the class of constitutional modes of State interposition. If there be passages in the report, or expressions in the resolutions, then, which seem to contemplate other modes of redress not resolvable into these, they must be considered as referring to those extreme cases of governmental abuse or usurpation, which would justify a resort to original rights, paramount to all constitutions.

Sir, it has been sometimes tauntingly said, that if the Virginia resolutions meant nothing more than to assert a right of interposition on the part of the States, by declaring an act of Congress unconstitutional, and founding thereon appeals to the other States, as well as to the General Government, the able reasoning of Mr. Madison's report was very uselessly expended in maintaining a right which no one would contest. But, sir, this right was formally and explicitly contested by all the States which returned answers to the resolutions of Virginia, with the exception of Kentucky only. Let gentlemen look at the answers given by the Legislatures of Delaware, New York, Connecticut, Rhode Island, Massachusetts, New Hampshire, and Vermont, and they will see that this right was boldly denied by them all; that they all contended that the right of pronouncing on the constitutionality of acts of the General Government was exclusively vested in the Federal Judiciary; and that a declaration by a State Legislature, such as Virginia, had made, of the unconstitutionality of an act of Congress, was an unwarrantable interference with the constituted authorities of the Union.

Attempts have also been made, sir, to decry this right as utterly idle and worthless in practice. I have already had occasion to remark that the exercise of this right in '98 and '99, by rallying public opinion to the true principles of the constitution, and embodying its expression in imposing organized forms, was found ade-

quate, not only to correct the particular usurpations of the alien and sedition acts, but to produce an entire and fundamental revolution in the administration of the Government. The striking and still progressive changes of public opinion in various quarters of the Union on the subject of the tariff, which I have also had occasion to notice, bear continued testimony to the efficacy of the same constitutional remedies. Sir, in a system like ours, founded on the moral force of public opinion, it is remedies of this sort, I am persuaded, that will be found most effectual; while violent and unconstitutional modes of redress, like that of South Carolina, will ever be attended with danger of reaction, excite prejudice, confirm the obstinacy of power, and raise up new obstacles in the way of relief.

Sir, I would appeal to gentlemen from the South, who profess attachment to the constitutional doctrines which are cherished in that quarter of the Union, and ask when was there ever less occasion to despair of the moral power and ultimate ascendancy of a sound public opinion? When have more triumphs been won for the cause of State rights and of limited constitutional construction, than during the last four years, by the patriotic Chief Magistrate, in whom the public opinion of this country has found a firm and unflinching organ? Has he not, sir, by a courageous exercise of a power which had hitherto almost lain dormant in the constitution, annihilated the earliest encroachment of federal power? Has he not, in like manner, arrested the wasteful torrent of public expenditure for unconstitutional objects? And has he not nobly used, as he is still using, the high influence with which the confidence of his country has invested him, to relieve every portion of that country from the burdens of the unequal and oppressive system of taxation of which we complain? Sir, I refer to these topics with no wish to awaken any unpleasant recollections of past contests here or elsewhere, but simply to remind gentlemen, who come from that portion of the country where the political principles to which I have alluded so generally prevail, of the rapid progress which those principles have made, under the auspices of the present Chief Magistrate, towards a settled ascendancy in the public councils; and to ask them if there ever was less reason for the friends of those principles to distrust the peaceful influence of opinion, and, by flying to extremities, to hazard not only their triumph, but the existence of our institutions themselves?

I will proceed now, Mr. President, to state, very briefly, my ideas of what we are called upon to do, in the present circumstances of the country. If we were to separate without doing something, and something effectual too, to vindicate the despised authority of the laws, the Government and the Union would be thenceforward virtually dissolved. Our oaths to support the constitution—our highest duties to our country (which, having a right to equal laws,

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is entitled also to an equal execution of them) demand, at our hands, proper and effectual provisions for the execution of the laws in question. My plan, then, would be simply this: I would take up this new code of nullification, I would examine it in all its inventions, and apply to every one of its devices an effectual counteraction. Whereas nullification provides that goods held for the payment of duties shall be taken out of the hands of the collector or marshal, under color of a fraudulent process of replevin, designed for the sole purpose of defeating the laws of the United States, I would say, as the bill now under consideration says, on well settled principles of jurisprudence, that goods thus in the custody of the law are irrepleviable, and shall be given up only in obedience to the order or decree of a court of the United States. Nullification, while it subjects officers of the United States to heavy penalties and damages for discharging their duties, provides that all controversies, civil or criminal, which may arise under its ordinance, shall be drawn exclusively to the State Courts, the judges and jurors of which are to be bound by a solemn oath to carry the ordinance into execution, prohibits, under high penalties, appeals from their decisions to the courts of the United States; and forbids, in like manner, the furnishing of any copy of a record to prosecute such an appeal. These provisions also should be effectually counteracted. The judicial power of the United States, which is expressly declared to extend to all cases in law or equity arising under the constitution or laws of the United States, would, indeed, be a mischievous mockery if it could not be made to reach cases of this description. I would, therefore, declare, as the bill declares, that the jurisdiction of the circuit courts of the United States shall extend to all cases arising under the revenue laws of the United States; that all suits or controversies of that character may be removed, as the third section of the bill provides, from the State to the United States courts on the petition of the defendant; and that if a copy of the record be refused, it may be supplied by other means or secondary evidence. In regard to those clauses of the bill which provide for the removal of the custom-house, as has been significantly and properly said, out of harm's way, and for requiring payment of duties in cash, deducting interest, where it is apprehended that the payment of the bonds would be sought to be prevented, and thus cutting off in their source controversies of a very delicate and dangerous character, they are conceived in a laudable spirit of peace, and I can see no well-founded objection to them. The provisions are in general terms, applying alike to all portions of the country, in case of unlawful obstructions to the collection of the revenue. Whenever and wherever such obstructions shall arise, the law applies its remedy. If, in point of fact, it should, at present, apply to South Carolina only, the fault will be here, in opposing unlawful obstructions which exist nowhere else, and

not that of the law, which is equal and general in its provisions.

FRIDAY, February 15.

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Mr. CALHOUN said, having now corrected some of the prominent misrepresentations as to the nature of this controversy, and given a rapid sketch of the movement of the State in reference to it, he would next proceed to notice some objections connected with the ordinance and the proceedings under it.

The first and most prominent of these is directed against what is called the test oath, which an effort has been made to render odious. So far from deserving the denunciation which had been levelled against it, he viewed this provision of the ordinance as but the natural result of the doctrine entertained by the State, and the position which she occupies. The people of that State believed that the Union is a union of States, and not of individuals; that it was formed by the States; and that the citizens of the several States were bound to it through the acts of their several States; that each State ratified the constitution for itself, and that it was only by such ratification of a State that any obligation was imposed upon the citizens. Thus believing, it was the opinion of the people of Carolina that it belonged to the State which had imposed the obligation to declare, in the last resort, the extent of that obligation, as far as her citizens were concerned; and this, upon the plain principles which exist in all analogous cases of compact between sovereign or political bodies. On this principle, the people of the State, acting in their sovereign capacity in convention, precisely as they had adopted their own and the federal constitutions, had declared, by the ordinance, that the acts of Congress which had imposed duties under the authority to lay imposts, were acts, not for revenue, as intended by the constitution, but for protection, and therefore null and void. The ordinance, thus enacted by the people of the State themselves acting as a sovereign community, was, to all intents and purposes, a part of the constitution of the State; and though of a peculiar character, was as obligatory on the citizens of that State as any portion of the constitution. In prescribing, then, the oath to obey the ordinance, no more was done than to prescribe an oath to obey the constitution. It was, in fact, but a particular oath of allegiance, and in every respect similar to that which is prescribed under the Constitution of the United States to be administered to all officers of the State and Federal Governments; and was no more deserving the harsh and bitter epithets which had been heaped upon it, than that or any similar oath.

It ought to be borne in mind, that, according to the opinion which prevailed in Carolina, the right of resistance to the unconstitutional laws of Congress belongs to the State, and not to her

individual citizens; and that, though the latter may, in a mere question of *meum* and *tuum*, resist, through the courts, an unconstitutional encroachment upon their rights, yet the final stand against usurpation rests not with them, but with the State of which they are members; and that such act of resistance by a State binds the conscience and allegiance of the citizen. But there appeared to be a general misapprehension as to the extent to which the State had acted under this part of the ordinance. Instead of sweeping every officer, by a general proscription of the minority, as has been represented in debate, as far as the knowledge of Mr. O. extends, not a single individual had been removed. The State had, in fact, acted with the greatest tenderness, all circumstances considered, towards citizens who differed from the majority; and, in that spirit, had directed the oath to be administered only in cases of some official act directed to be performed, in which obedience to the ordinance was involved.

It had been further objected that the State had acted precipitately. What! precipitately! after making a strenuous resistance for twelve years, by discussion here and in the other House of Congress; by essays in all forms; by resolutions, remonstrances, and protests on the part of her Legislature; and, finally, by attempting an appeal to the judicial power of the United States? He said attempting, for they had been prevented from bringing the question fairly before the court, and that by an act of that very majority in Congress which now upbraids them for not making that appeal; of that majority, who, on a motion of one of the members in the other House, from South Carolina, refused to give to the act of 1828 its true title, that it was a protective, and not a revenue act. The State has never, it is true, relied upon that tribunal, the Supreme Court, to vindicate its reserved rights; yet they have always considered it as an auxiliary means of defence, of which they would gladly have availed themselves to test the constitutionality of protection, had they not been deprived of the means of doing so by the act of the majority.

Notwithstanding this long delay of more than ten years, under this continued encroachment of the Government, we now hear it on all sides, by friends and foes, gravely pronounced that the State has acted precipitately—that her conduct has been rash! That such should be the language of an interested majority, who, by means of this unconstitutional and oppressive system, are annually extorting millions from the South to be bestowed upon other sections, was not at all surprising. Whatever impedes the course of avarice and ambition will ever be denounced as rash and precipitate; and had South Carolina delayed her resistance fifty instead of twelve years, she would have heard from the same quarter the same language; but it was really surprising that those who were suffering in common with herself, and who have complained equally loud of their grievances, who

had pronounced the very acts which she had asserted within her limits to be oppressive, unconstitutional, and ruinous, after so long a struggle—a struggle longer than that which preceded the separation of these States from the mother country—longer than the period of the Trojan war—should now complain of precipitancy! No, it is not Carolina which has acted precipitately, but her sister States, who have suffered in common with her, that have acted tardily. Had they acted as she has done, had they performed their duty with equal energy and promptness, our situation this day would be very different from what we now find it. Delays are said to be dangerous, and never was the maxim more true than in the present case—a case of monopoly. It is the very nature of monopolies to grow. If we take from one side a large portion of the proceeds of its labor, and give it to the other, the side from which we take must constantly decay, and that to which we give must prosper and increase. Such is the action of the protective system. It exacts from the South a large portion of the proceeds of its industry, which it bestows upon the other sections, in the shape of bounties to manufacturers and appropriations in a thousand forms—pensions, improvement of rivers and harbors, roads and canals, and in every shape that wit or ingenuity can devise. Can we, then, be surprised that the principle of monopoly grows, when it is so amply remunerated at the expense of those who support it? And this is the real reason of the fact which we witness: that all acts for protection pass with small minorities, but soon come to be sustained by great and overwhelming majorities. Those who seek the monopoly endeavor to obtain it in the most exclusive shape; and they take care, accordingly, to associate only a sufficient number of interests barely to pass it through the two Houses of Congress, on the plain principle that the greater the number from whom the monopoly takes, and the fewer on whom it bestows, the greater is the advantage to the monopolists. Acting in this spirit, we have often seen with what exact precision they count, adding wool to wools, associating lead and iron, feeling their way until a bare majority is obtained, when the bill passes, connecting just as many interests as are sufficient to insure its success, and no more. In a short time, however, we have invariably found that this lean becomes a decided majority, under the certain operation which compels individuals to desert the pursuits which the monopoly has rendered unprofitable, that they may participate in those pursuits which it has rendered profitable. It is against this dangerous and growing disease that South Carolina has acted—a disease whose cancerous action would soon spread to every part of the system, had it not been speedily arrested.

The very point at issue between the two parties there was, whether nullification was a peaceful and an efficient remedy against an unconstitutional act of the General Government,

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and which might be asserted as such through the State tribunals? Both parties agree that the acts against which it was directed are unconstitutional and oppressive. The controversy was only as to the means by which our citizens might be protected against the acknowledged encroachments on their rights. This being the point at issue between the parties, and the very object of the majority being an efficient protection of the citizens through the State tribunals, the measures adopted to enforce the ordinance of course received the most decisive character. We were not children; to act by halves. Yet, for acting thus efficiently, the State is denounced, and this bill reported, to overrule, by military force, the civil tribunals and civil process of the State! Sir, (said Mr. C.) I consider this bill, and the arguments which have been urged on this floor in its support, as the most triumphant acknowledgment that nullification is peaceful and efficient, and so deeply entrenched in the principles of our system, that it cannot be assailed but by prostrating the constitution, and substituting the supremacy of military force in lieu of the supremacy of the laws. In fact, the advocates of this bill refute their own argument. They tell us that the ordinance is unconstitutional, that it infracts the constitution of South Carolina; although to him the objection appears absurd, as it was adopted by the very authority which adopted the constitution itself. They also tell us that the Supreme Court is the appointed arbiter of all controversies between a State and the General Government. Why, then, do they not leave this controversy to that tribunal? Why do they not confide to them the abrogation of the ordinance, and the laws made in pursuance of it, and the assertion of that supremacy which they claim for the laws of Congress? The State stands pledged to resist no process of the court. Why, then, confer on the President the extensive and unlimited powers provided in this bill? Why authorize him to use military force to arrest the civil process of the State? But one answer can be given. That, in a contest between the State and the General Government, if the resistance be limited on both sides to the civil process, the State, by its inherent sovereignty, standing upon its reserved powers, will prove too powerful in such a controversy, and must triumph over the Federal Government, sustained by its delegated and limited authority; and, in this answer, we have an acknowledgment of the truth of those great principles for which the State has so firmly and nobly contended.

Having made these remarks, the great question is now presented—has Congress the right to pass this bill?—which he would next proceed to consider. The decision of this question involves the inquiry into the provisions of the bill. What are they? It puts at the disposal of the President the army and navy, and the entire militia of the country. It enables him, at his pleasure, to subject every man in the United States, not exempt from militia duty,

to martial law; to call him from his ordinary occupation to the field, and, under the penalty of fine and imprisonment inflicted by a court-martial, to imbrue his hand in his brother's blood. There is no limitation on the power of the sword, and that over the purse is equally without restraint; for, among the extraordinary features of the bill, it contains no appropriation; which, under existing circumstances, is tantamount to an unlimited appropriation. The President may, under its authority, incur any expenditure, and pledge the national faith to meet it. He may create a new national debt, at the very moment of the termination of the former—a debt of millions, to be paid out of the proceeds of the labor of that section of the country whose dearest constitutional rights this bill prostrates!—thus exhibiting the extraordinary spectacle, that the very section of the country which is urging this measure, and carrying the sword of devastation against us, are at the same time incurring a new debt, to be paid by those whose rights are violated; while those who violate them are to receive the benefits, in the shape of bounties and expenditures.

The bill violates the constitution, plainly and palpably, in many of its provisions, by authorizing the President, at his pleasure, to place the different ports of this Union on an unequal footing, contrary to that provision of the constitution which declares that no preference should be given to one port over another. It also violates the constitution by authorizing him, at his discretion, to impose cash duties in one port, while credit is allowed in others; by enabling the President to regulate commerce, a power vested in Congress alone; and by drawing within the jurisdiction of the United States courts powers never intended to be conferred on them. As great as these objections were, they became insignificant in the provisions of a bill which, by a single blow, by treating the States as a mere lawless mass of individuals, prostrates all the barriers of the constitution. He would pass over the minor considerations, and proceed directly to the great point. This bill proceeds on the ground that the entire sovereignty of this country belongs to the American people, as forming one great community; and regards the States as mere fractions or counties, and not as an integral part of the Union, having no more right to resist the encroachments of the Government than a county has to resist the authority of a State; and treating such resistance as the lawless acts of so many individuals, without possessing sovereign or political rights. It has been said that the bill declares war against South Carolina. No; it decrees a massacre of her citizens! War has something ennobling about it, and, with all its horrors, brings into action the highest qualities, intellectual and moral. It was, perhaps, in the order of Providence that it should be permitted for that very purpose. But this bill declares no war, except, indeed, it be that which savages

wage—a war not against the community, but the citizens of whom that community is composed. But he regarded it as worse than savage warfare—as an attempt to take away life under the color of law, without the trial by jury, or any other safeguard which the constitution has thrown around the life of the citizen! It authorizes the President, or even his deputies, when they may suppose the law to be violated, without the intervention of a court or jury, to kill without mercy or discrimination!

It was said by the Senator from Tennessee [Mr. Grundy] to be a measure of peace! Yes, such peace as the wolf gives to the lamb; the kite to the dove. Such peace as Russia gives to Poland; or death to its victim! A peace, by extinguishing the political existence of the State; by awing her into an abandonment of the exercise of every power which constitutes her a sovereign community. It is to South Carolina a question of self-preservation; and I proclaim it, that, should this bill pass, and an attempt be made to enforce it, it will be resisted at every hazard, even that of death itself. Death is not the greatest calamity; there are others still more terrible to the free and brave; and among them may be placed the loss of liberty and honor. There are thousands of her brave sons who, if need be, are prepared cheerfully to lay down their lives in defence of the State, and the great principles of constitutional liberty for which she is contending. God forbid that this should become necessary! It never can be, unless this Government is resolved to bring the question to extremity, when her gallant sons will stand prepared to perform their last duty—to die nobly.

I go (said Mr. C.) on the ground that this constitution was made by the States; that it is a federal union of the States, in which the several States still retain their sovereignty. If these views be correct, he had not characterized the bill too strongly, which presents the question, whether they be or be not. He would not enter into the discussion of that question now. He would rest it for the present on what he had said on the introduction of the resolutions now on the table, under a hope that another opportunity would be afforded for more ample discussion. He would for the present confine his remarks to the objections which had been raised to the views which he had presented when he introduced them. The authority of Luther Martin had been adduced by the Senator from Delaware, to prove that the citizens of a State, acting under the authority of a State, were liable to be punished as traitors by this Government. As eminent as Mr. Martin was as a lawyer, and as high as his authority might be considered on a legal point, he could not accept it in determining the point at issue. The attitude which he occupied, if taken into view, would lessen, if not destroy, the weight of his authority. He had been violently opposed, in convention, to the constitution; and the very letter from which the Senator has quoted was in-

tended to dissuade Maryland from its adoption. With this view, it was to be expected that every consideration calculated to effect that object should be urged; that real objections should be exaggerated; and that those having no foundation except mere plausible deductions, should be presented. It is to this spirit that he attributed the opinion of Mr. Martin, in reference to the point under consideration. But if his authority is good on one point, it must be admitted to be equally so on another. If his opinion be sufficient to prove that a citizen of the State may be punished as a traitor when acting under allegiance to the State, it is also sufficient to show that no authority was intended to be given, in the constitution, for the protection of manufactures by the General Government; and that the provision in the constitution, permitting a State to lay an impost duty with the consent of Congress, was intended to reserve the right of protection to the States themselves, and that each State should protect its own industry. Assuming his opinion to be of equal authority on both points, how embarrassing would be the attitude in which it would place the Senator from Delaware, and those with whom he was acting—that of using the sword and the bayonet to enforce the execution of an unconstitutional act of Congress. He must express his surprise that the slightest authority in favor of power should be received as the most conclusive evidence, while that which is at least equally strong in favor of right and liberty is wholly overlooked or rejected.

But to return to the bill. It is said that the bill ought to pass, because the law must be enforced. The law must be enforced! The imperial edict must be executed. It is under such sophistry, couched in general terms, without looking to the limitations which must ever exist in the practical exercise of power, that the most cruel and despotic acts ever have been covered. It was such sophistry as this that cast Daniel into the lion's den, and the three innocents into the fiery furnace. Under the same sophistry, the bloody edicts of Nero and Caligula were executed. The law must be enforced! Yes, the "tea tax must be executed." This was the very argument which impelled Lord North and his administration in that mad career which forever separated us from the British crown. Under a similar sophistry, "that religion must be protected," how many massacres have been perpetrated! and how many martyrs have been tied to the stake? What! acting on this vague abstraction, are you prepared to enforce a law, without considering whether it be just or unjust, constitutional or unconstitutional? Will you collect money when it is acknowledged that it is not wanted? He who earns the money, who digs it from the earth with the sweat of his brow, has a just title to it against the universe. No one has a right to touch it without his consent except his Government, and it only to the extent of its legitimate

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wants. To take more is robbery; and you propose by this bill to enforce the robbery by murder. Yes, to this result you must come by this miserable sophistry, this vague abstraction, of enforcing the law without a regard to the fact whether the law be just or unjust, constitutional or unconstitutional.

In the same spirit we are told that the Union must be preserved, without regard to the means. And how is it proposed to preserve the Union? By force! Does any man in his senses believe that this beautiful structure, this harmonious aggregate of States produced by the joint consent of all, can be preserved by force? Its very introduction will be certain destruction of this Federal Union. No, no; you cannot keep the States united in their constitutional and federal bonds by force. Force may, indeed, hold the parts together; but such union would be the bond between master and slave; a union of exaction on one side, and of unqualified obedience on the other. That obedience which, we are told by the Senator from Pennsylvania, [Mr. WILKINS,] is the Union! Yes, exaction on the side of the master; for this very bill is intended to collect what can be no longer called taxes, (the voluntary contribution of a free people,) but tribute, tribute to be collected under the mouths of the cannon! Your custom-house is already transferred to a garrison, and that garrison with its batteries turned, not against the enemy of your country, but on subjects, (I will not say citizens,) on whom you propose to levy contributions. Has reason fled from our borders? Have we ceased to reflect? It is madness to suppose that the Union can be preserved by force. I tell you plainly that the bill, should it pass, cannot be enforced. It will prove only a blot upon your statute book, a reproach to the year, and a disgrace to the American Senate. I repeat that it will not be executed; it will rouse the dormant spirit of the people, and open their eyes to the approach of despotism. The country has sunk into avarice and political corruption, from which nothing could arouse it but some measure, on the part of the Government, of folly and madness, such as that now under consideration.

Disguise it as you may, the controversy is one between power and liberty; and he would tell the gentlemen who are opposed to him, that, strong as might be the love of power on their side, the love of liberty is still stronger on ours. History furnishes many instances of similar struggles, where the love of liberty has prevailed against power, under every disadvantage; and, among them, few more striking than that of our own revolution; where, strong as was the parent country, and feeble as were the colonies, yet, under the impulse of liberty and the blessing of God, they gloriously triumphed in the contest. There were, indeed, many and striking analogies between that and the present controversy;

they both originated substantially in the same cause, with this difference, that, in the present case, the power of taxation is converted into that of regulating industry; in that, the power of regulating industry, by the regulation of commerce, was attempted to be converted into the power of taxation. Were he to trace the analogy further, we would find that the perversion of the taxing power, in one case, has given precisely the same control to the northern section over the industry of the southern section of the Union, which the power to regulate commerce gave to Great Britain over the industry of the colonies; and that the very articles in which the colonies were permitted to have a free trade, and those in which the mother country had a monopoly, are almost identically the same as those under which the Southern States are permitted to have a free trade by the act of 1832, and of which the Northern States have, by the same act, secured a monopoly; the only difference is in the means. In the former, the colonies were permitted to have free trade with all countries south of Cape Finisterre, a cape in the northern part of Spain; while north of that the trade of the colonies was prohibited, except through the mother country, by means of her commercial regulations. If we compare the products of the country north and south of Cape Finisterre, we will find them almost identical with the list of the protected and unprotected articles contained in the act of last year. Nor does the analogy terminate here. The very arguments resorted to at the commencement of the American revolution, and the measures adopted, and the motives assigned to bring on that contest, (to enforce the law,) are almost identically the same.

Mr. C. said that, in reviewing the ground over which he had passed, it would be apparent that the question in controversy involved that most deeply important of all political questions, whether ours was a federal or a consolidated government—a question on the decision of which depends, as he solemnly believed, the liberty of the people, their happiness, and the place which we are destined to hold in the moral and intellectual scale of nations. Never was there a controversy in which more important consequences were involved, not excepting that between Persia and Greece, decided by the battles of Marathon, Platea, and Salamis, which gave ascendancy to the genius of Europe over that of Asia, and which, in its consequences, has continued to affect the destiny of so large a portion of the world, even to this day. There is, (said Mr. C.,) often close analogies between events apparently very remote, which is strikingly illustrated in this case. In the great contest between Greece and Persia, between European and Asiatic polity and civilization, the very questions between the federal and consolidated form of government was involved. The Asiatic Governments, from

the remotest time, with some exceptions on the eastern shore of the Mediterranean, have been based on the principle of consolidation, which considers the whole community as but a unit; and consolidates its powers in a central point. The opposite principle has prevailed in Europe Greece, throughout all her States, was based on a federal system. All were united in one common but loose bond, and the Governments of the several States partook, for the most part, of a complex organization, which distributed political power among different members of the community. The same principles prevailed in ancient Italy; and, if we turn to the Teutonic race, our great ancestors, the race which occupies the first place in power, civilization, and science, and which possess the largest and the fairest part of Europe, we will find that their Governments were based on the federal organization, as has been clearly illustrated by a recent and able writer on the British constitution, (Mr. Palgrave,) from whose writings he introduced the following extract:

"In this manner the first establishment of the Teutonic States was effected. They were assemblages of sects, clans, and tribes; they were confederated hosts and armies, led on by princes, magistrates, and chieftains, each of whom was originally independent, and each of whom lost a portion of his pristine independence in proportion as he and his compeers became united under the supremacy of a sovereign, who was superinduced upon the State first as a military commander, and afterwards as a king. Yet, notwithstanding this political connection, each member of the State continued to retain a considerable portion of the rights of sovereignty. Every ancient Teutonic monarchy must be considered as a federation; it is not a unit, of which the smaller bodies politic therein contained are the fractions, but they are the integers, and the State is the multiple which results from them. Dukedoms and counties, burghs and baronies, towns and townships, and shires, form the kingdom—all, in a certain degree, strangers to each other, and separate in jurisdiction, though all obedient to the supreme executive authority. This general description, though not always strictly applicable in terms, is always so substantially and in effect; and hence it becomes necessary to discard the language which has been very generally employed in treating on the English constitution. It has been supposed that the kingdom was reduced into a regular and gradual subordination of government, and that the various legal districts of which it is composed arose from the divisions and subdivisions of the country. But this hypothesis, which tends greatly to perplex our history, cannot be supported by fact; and instead of viewing the constitution as a whole, and then proceeding to its parts, we must examine it synthetically, and assume that the supreme authorities of the State were created by the concentration of the powers originally belonging to the members and corporations of which it is composed."

He had stated, also, in his remarks on this point, that there was a striking analogy between

this and the great struggle between Persia and Greece, which had been decided by the battles of Marathon, Plataea, and Salamis, and which had immortalized the names of Miltiades and Themistocles. He had illustrated this analogy, by showing that centralism, or consolidation, with the exception of a few nations along the eastern border of the Mediterranean, had been the pervading principle in the Asiatic Governments; while the federal principle, or, what is the same in principle, that system which organizes a community in reference to its parts, had prevailed in Europe.

Among the few exceptions in the Asiatic nations, the Government of the twelve tribes of Israel, in its early period, was the most striking. Their Government, at first, was a mere confederation, without any central power, till a military chieftain, with the title of King, was placed at its head, without, however, merging the original organization of the twelve distinct tribes. This was the commencement of that central action among that peculiar people, which, in three generations, terminated in a permanent division of their tribes. It is impossible even for a careless reader to peruse the history of that event without being forcibly struck with the analogy in the causes which led to their separation and those which now threaten us with a similar calamity. With the establishment of the central power in the King commenced a system of taxation, which, under King Solomon, was greatly increased, to defray the expense of rearing the temple, of enlarging and embellishing Jerusalem, the seat of the central Government, and the other profuse expenditures of his magnificent reign. Increased taxation was followed by its natural consequences—discontent and complaint, which before his death began to excite resistance. On the succession of his son, Rehoboam, the ten tribes, headed by Jeroboam, demanded a reduction of the taxes; the temple being finished, and the embellishment of Jerusalem completed, and the money which had been raised for that purpose being no longer required; or, in other words, the debt being paid, they demanded a reduction of the duties—a repeal of the tariff. The demand was taken under consideration, and, after consulting the old men, (the counsellors of '98,) who advised a reduction, he then took the opinion of the younger politicians, who had since grown up, and knew not the doctrines of their fathers. He hearkened unto their counsel, and refused to make the reduction; and the secession of the ten tribes, under Jeroboam, followed. The tribes of Judah and Benjamin, which had received the disbursements, alone remained to the house of David.

But to return to the point immediately under consideration. He knew that it was not only the opinion of a large majority of our country, but it might be said to be the opinion of the age, that the very *beau idéal* of a perfect Government was the Government of a majority, acting through a representative body, without check or limitation in its power; yet if we may

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test this theory by experience and reason, we will find that, so far from being perfect, the necessary tendency of all Governments based upon the will of an absolute majority, without constitutional check or limitation of power, is to faction, corruption, anarchy, and despotism; and this whether the will of the majority be expressed directly through an assembly of the people themselves, or by their representatives. I know (said Mr. C.) that in venturing this assertion I utter that which is unpopular, both within and without these walls; but, where truth and liberty are concerned, such considerations should not be regarded. He would place the decision of this point on the fact, that no Government of the kind, among the many attempts which had been made, had ever endured for a single generation; but, on the contrary, had invariably experienced the fate which he had assigned to them. Let a single instance be pointed out and he would surrender his opinion. But, if we had not the aid of experience to direct our judgment, reason itself would be a certain guide. The view which considers the community as a unit, and all its parts as having a similar interest, is radically erroneous. However small the community may be, and however homogeneous its interests, the moment that Government is put into operation, as soon as it begins to collect taxes, and to make appropriations, the different portions of the community must, of necessity, bear different and opposing relations in reference to the action of the Government. There must inevitably spring up two interests—a direction and a stockholder interest; an interest profiting by the action of the Government, and interested in increasing its powers and action; and another at whose expense the political machine is kept in motion. He knew how difficult it was to communicate distinct ideas on such a subject, through the medium of general propositions, without particular illustration; and, in order that he might be distinctly understood, though at the hazard of being tedious, he would illustrate the important principle which he had ventured to advance by examples.

Let us, then, suppose a small community of five persons, separated from the rest of the world; and, to make the example strong, let us suppose them all to be engaged in the same pursuit, and to be of equal wealth. Let us further suppose that they determine to govern the community by the will of a majority; and, to make the case as strong as possible, let us suppose that the majority, in order to meet the expenses of the Government, lay an equal tax, say of one hundred dollars, on each individual of this little community. Their treasury would contain five hundred dollars. Three are a majority; and they, by supposition, have contributed three hundred as their portion, and the other two, (the minority,) two hundred. The three have the right to make the appropriations as they may think proper. The question is, how would the principle of the absolute and unchecked majority operate, under these circumstances, in this

little community? If the three be governed by a sense of justice; if they should appropriate the money to the objects for which it was raised, the common and equal benefit of the five, then the object of the association would be fairly and honestly effected, and each would have a common interest in the Government. But, should the majority pursue an opposite course, should they appropriate the money in a manner to benefit their own particular interests without regard to the interest of the two; (and that they will so act, unless there be some efficient check, he who best knows human nature will least doubt,) who does not see that the three and the two would have directly opposite interests, in reference to the action of the Government? The three, who contribute to the common treasury but three hundred dollars, could, in fact, by appropriating the five hundred to their own use, convert the action of the Government into the means of making money; and, of consequence, would have a direct interest in increasing the taxes. They put in three hundred, and take out five; that is, they take back to themselves all that they had put in; and, in addition, that which was put in by their associates; or, in other words, taking taxation and appropriation together, they have gained, and their associates have lost, two hundred dollars by the fiscal action of the Government. An opposite interest, in reference to the action of the Government, is thus created between them; the one having an interest in favor and the other against the taxes; the one to increase, and the other to decrease the taxes; the one to retain the taxes when the money is no longer wanted, and the other to repeal them when the objects for which they were levied have been executed.

Let us now suppose this community of five to be raised to twenty-four individuals, to be governed in like manner by the will of a majority. It is obvious that the same principle would divide them into two interests; into a majority and a minority, thirteen against eleven, or in some other proportion; and that all the consequences which he had shown to be applicable to the small community of five, would be equally applicable to the greater; the cause not depending upon the number, but resulting necessarily from the action of the Government itself. Let us now suppose that, instead of governing themselves directly in an assembly of the whole, without the intervention of agents, they should adopt the representative principle; and that, instead of being governed by a majority of themselves, they should be governed by a majority of their representatives. It is obvious that the operation of the system would not be affected by the change; the representatives, being responsible to those who choose them, would conform to the will of their constituents, and would act as they would do were they present and acting for themselves; and the same conflict of interest which we have shown would exist in one case would equally exist in the other. In either case, the inevitable result

would be a system of hostile legislation on the part of the majority, or the stronger interest, against the minority, or the weaker interest; the object of which, on the part of the former, would be to exact as much as possible from the latter, which would necessarily be resisted by all the means in their power. Warfare, by legislation, would thus be commenced between the parties, with the same object, and not less hostile, than that which is carried on between distinct and rival nations; the only distinction would be in the instruments and the mode. Enactments, in the one case, would supply what could only be effected by arms in the other; and the inevitable operation would be to engender the most hostile feelings between the parties, which would immerse every feeling of patriotism—that feeling which embraces the whole—and substitute in its place the most violent party attachment; and, instead of having one common centre of attachment, around which the affections of the community might rally, there would, in fact, be two; the interests of the majority, to which those who constitute that majority would be more attached than they would be to the whole, and that of the minority, to which they in like manner would also be more attached than to the interests of the whole. Faction would thus take the place of patriotism; and, with the loss of patriotism, corruption must necessarily follow; and, in its train, anarchy; and, finally, despotism, or the establishment of absolute power in a single individual, as a means of arresting the conflict of hostile interests; on the principle that it is better to submit to the will of a single individual, who, by being made lord and master of the whole community, would have an equal interest in the protection of all the parts.

Let us next suppose that, in order to avert the calamitous train of consequences, this little community should adopt a written constitution, with limitations restricting the will of the majority, in order to protect the minority against the oppressions which he had shown would necessarily result without such restrictions. It is obvious that the case would not be in the slightest degree varied, if the majority be left in possession of the right of judging exclusively of the extent of its powers, without any right on the part of the minority to enforce the restrictions imposed by the constitution on the will of the majority. The point is almost too clear for illustration. Nothing can be more certain than that when a constitution grants power, and imposes limitations on the exercise of that power, whatever interests may obtain possession of the Government will be in favor of extending the power at the expense of the limitation; and that, unless those in whose behalf the limitations were imposed have, in some form or mode, the right of enforcing them, the power will ultimately supersede the limitation, and the Government must operate precisely in the same manner as if the will of the majority governed without constitution or limitation of power.

He had thus presented all possible modes in which a Government bound upon the will of an absolute majority would be modified; and had demonstrated that, in all its forms, whether in a majority of the people, as in a mere democracy, or in a majority of their representatives, without a constitution, or with a constitution, to be interpreted as the will of the majority, the result would be the same—two hostile interests would inevitably be created by the action of the Government, to be followed by hostile legislation, and that by faction, corruption, anarchy, and despotism.

The great and solemn question here presented itself: Is there any remedy for these evils? on the decision of which depends the question, whether the people can govern themselves! which has been so often asked, with so much scepticism and doubt. There is a remedy, and but one, the effects of which, whatever may be the form, is to organize society in reference to this conflict of interests, which springs out of the action of Government; and which can only be done by giving to each part the right of self-protection; which, in a word, instead of considering the community of twenty-four as a single community, having a common interest, and to be governed by the single will of an entire majority, shall, upon all questions tending to bring the parts into conflict, the thirteen against the eleven, take the will, not of the twenty-four as a unit, but that of the thirteen and that of the eleven separately, the majority of each governing the parts; and, where they concur, governing the whole; and where they disagree, arresting the action of the Government. This he would call the concurring, as distinct from the absolute majority. It would not be, as was generally supposed, a minority governing a majority. In either way the number would be the same, whether taken as the absolute, or as the concurring majority. Thus, the majority of the thirteen is seven, and of the eleven six, and the two together make thirteen, which is the majority of twenty-four. But though the number is the same, the mode of counting is essentially different; the one representing the stronger interest, and the other the weaker interest of the community. The first mistake was, in supposing that the Government of the absolute majority is the Government of this people; that *beau idéal* of a perfect Government, which had been so enthusiastically entertained in every age, by the generous and patriotic, where civilization and liberty had made the smallest progress. There could be no greater error; the Government of the people is the Government of the whole community; of the twenty-four; the self-government of all the parts; too perfect to be reduced to practice in the present, or any past stage of human society. The Government of the absolute majority, instead of the Government of the people, is but the Government of the strongest interests; and when not efficiently checked, is the most tyrannical and oppressive that can be devised. Between this ideal

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perfection on one side, and despotism on the other, none other can be devised but that which considers society, in reference to its parts, as differently affected by the action of the Government, and which takes the sense of each part separately, and thereby the sense of the whole in the manner already illustrated.

Against the view of our system which he had presented, and the right of the State to interpose, it was objected that it would lead to anarchy and dissolution. He considered the objection as without the slightest foundation; and that, so far from tending to weakness or disunion, it was the source of the highest power and of the strongest cement. Nor was its tendency in this respect difficult of explanation. The Government of an absolute majority, unchecked by efficient constitutional restraint, though apparently strong, was in reality an exceedingly feeble Government. That tendency to conflict between the parts, which he had shown to be inevitable in such Governments, wasted the powers of the State in the hostile action of contending factions, which left very little more power than the excess of the strength of the majority over the minority. But a Government based upon the principle of the concurring majority, where each great interest possessed within itself the means of self-protection, which ultimately requires the mutual consent of all the parts, necessarily causes that unanimity in counsel, and ardent attachment of all the parts to the whole, which gives an irresistible energy to a Government so constituted.

He might appeal to history for the truth of these remarks, of which the Roman furnished the most familiar and striking. It was a well known fact, that, from the expulsion of the Tarquins to the time of the establishment of the tribunarian power, the Government fell into a state of the greatest disorder and distraction, and, he might add, corruption. How did this happen? The explanation will throw important light on the subject under consideration. The community was divided into two parts, the patricians and the plebeians, with the powers of the State principally in the hands of the former, without adequate check to protect the rights of the latter. The result was as might be expected. The patricians converted the powers of the Government into the means of making money, to enrich themselves and their dependants. They, in a word, had their American system, growing out of the peculiar character of the Government and condition of the country. This requires explanation. At that period, according to the laws of nations, when one nation conquered another, the lands of the vanquished belonged to the victors; and, according to the Roman law, the lands thus acquired were divided into parts, one allotted to the poorer class of the people, and the other assigned to the use of the treasury, of which the patricians had the distribution and administration. The patricians abused their power, by withholding from the people that which

ought to have been allotted to them, and by converting to their own use that which ought to have gone to the treasury. In a word, they took to themselves the entire spoils of victory, and they had thus the most powerful motive to keep the State perpetually involved in war, to the utter impoverishment and oppression of the people. After resisting the abuse of power by all peaceable means, and the oppression becoming intolerable, the people at last withdrew from the city; they, in a word, seceded; and, to induce them to reunite, the patricians conceded to the plebeians, as the means of protecting their separate interests, the very power which he contended is necessary to protect the rights of the States, but which is now represented as necessarily leading to disunion. They granted to the people the right of choosing three tribunes from among themselves, whose persons should be sacred, and who should have the right of interposing their veto, not only against the passage of laws, but even against their execution; a power which those who take a shallow insight into human nature would pronounce inconsistent with the strength and unity of the State, if not utterly impracticable. Yet, so far from that being the effect, from that day the Genius of Rome became ascendant, and victory followed her steps till she had established an almost universal dominion.

But to return to the General Government. We have now sufficient experience to ascertain that the tendency to conflict in its action is between southern and other sections. The latter, having a decided majority, must habitually be possessed of the powers of the Government, both in this and in the other House; and, being governed by that instinctive love of power so natural to the human breast, they must become the advocates of the power of Government, and in the same degree opposed to the limitations; while the other and weaker section is as necessarily thrown on the side of the limitations. In one word, the one section is the natural guardian of the delegated powers, and the other of the reserved; and the struggle on the side of the former will be to enlarge the powers, while that on the opposite side will be to restrain them within their constitutional limits. The contest will, in fact, be a contest between power and liberty, and such he considered the present; a contest in which the weaker section, with its peculiar labor, productions, and situation, has at stake all that can be dear to freemen. Should they be able to maintain in their full vigor their reserved rights, liberty and prosperity will be their portion; but if they yield, and permit the stronger interest to consolidate within itself all the powers of the Government, then will its fate be more wretched than that of the aborigines whom they have expelled or of their slaves. In this great struggle between the delegated and reserved powers, so far from repining that his lot and that of those whom he represented is cast on the side of the latter, he rejoiced that such is the fact;

for though we participate in but few of the advantages of the Government, we are compensated, and more than compensated, in not being so much exposed to its corruption. Nor did he repine that the duty, so difficult to be discharged, as the defence of the reserved powers against, apparently, such fearful odds, had been assigned to them. To discharge successfully this high duty requires the highest qualities, moral and intellectual; and, should we perform it with a zeal and ability in proportion to its magnitude, instead of being mere planters, our section will become distinguished for its patriots and statesmen. But, on the other hand, if we prove unworthy of this high destiny, if we yield to the steady encroachment of power, the severest and most debasing calamity and corruption will overspread the land. Every Southern man, true to the interests of his section, and faithful to the duties which Providence has allotted him, will be forever excluded from the honors and emoluments of this Government, which will be reserved for those only who have qualified themselves, by political prostitution, for admission into the Magdalen Asylum.

SATURDAY, February 16.

Revenue Collection Bill—Nullification.

The Senate having resumed the consideration of this bill,

Mr. WEBSTER said: The gentleman from South Carolina has admonished us to be mindful of the opinions of those who shall come after us. We must take our chance, sir, as to the light in which posterity will regard us. I do not decline its judgment, nor withhold myself from its scrutiny. Feeling that I am performing my public duty with singleness of heart, and to the best of my ability, I fearlessly trust myself to the country, now and hereafter, and leave both my motives and my character to its decision.

The gentleman has terminated his speech in a tone of threat and defiance towards this bill, even should it become a law of the land, altogether unusual in the halls of Congress. But I shall not suffer myself to be excited into warmth by his denunciation of the measure which I support. Among the feelings which at this moment fill my breast, not the least is that of regret at the position in which the gentleman has placed himself. Sir, he does himself no justice. The cause which he has espoused finds no basis in the constitution; no succor from public sympathy; no cheering from a patriotic community. He has no foothold on which to stand, while he might display the powers of his acknowledged talents. Every thing beneath his feet is hollow and treacherous. He is like a strong man struggling in a morass; every effort to extricate himself only sinks him deeper and deeper. And I fear the resemblance may be carried still further; I fear

that no friend can safely come to his relief, that no one can approach near enough to hold out a helping hand, without danger of going down himself, also, into the bottomless depths of this Serbonian bog.

The honorable gentleman has declared that on the decision of the question now in debate may depend the cause of liberty itself. I am of the same opinion; but then, sir, the liberty which I think is staked on the contest is not political liberty, in any general and undefined character, but our own, well understood, and long enjoyed American liberty.

Sir, I love liberty no less ardently than the gentleman, in whatever form she may have appeared in the progress of human history. As exhibited in the master states of antiquity, as breaking out again from amidst the darkness of the middle ages, and beaming on the formation of new communities in modern Europe, she has always and everywhere charms for me. Yet, sir, it is our own liberty, guarded by constitutions and secured by union; it is that liberty which is our paternal inheritance, it is our established, dear-bought, peculiar American liberty, to which I am chiefly devoted, and the cause of which I now mean, to the utmost of my power, to maintain and defend.

Mr. President, if I considered the constitutional question now before us as doubtful as it is important, and if I supposed that this decision, either in the Senate or by the country, was likely to be in any degree influenced by the manner in which I might now discuss it, this would be to me a moment of deep solicitude. Such a moment has once existed. There has been a time, when, rising in this place, on the same question, I felt, I must confess, that something for good or evil to the constitution of the country might depend on an effort of mine. But circumstances are changed. Since that day, sir, the public opinion has become awakened to this great question; it has grasped it, it has reasoned upon it, as becomes an intelligent and patriotic community; and has settled it, or now seems in the progress of settling it, by an authority which none can disobey—the authority of the people themselves.

I shall not, Mr. President, follow the gentleman, step by step, through the course of his speech. Much of what he has said he has deemed necessary to the just explanation and defence of his own political character and conduct. On this I shall offer no comment. Much, too, has consisted of philosophical remark upon the general nature of political liberty and the history of free institutions; and of other topics, so general in their nature, as to possess, in my opinion, only a remote bearing on the immediate subject of this debate.

But the gentleman's speech made some days ago, upon introducing his resolutions, those resolutions themselves, and parts of the speech now just concluded, may probably be justly regarded as comprising the whole South Carolina doctrine. That doctrine it is my purpose

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now to examine, and to compare it with the Constitution of the United States. I shall not consent, sir, to make any new constitution, or to establish another form of government. I will not undertake to say what a constitution for these United States ought to be. That question the people have decided for themselves; and I shall take the instrument as they have established it, and shall endeavor to maintain it, in its plain sense and meaning, against opinions and notions which, in my judgment, threaten its subversion.

The resolutions introduced by the gentleman were apparently drawn up with care, and brought forward upon deliberation. I shall not be in danger, therefore, of misunderstanding him, or those who agree with him, if I proceed at once to these resolutions, and consider them as an authentic statement of those opinions, upon the great constitutional question, by which the recent proceedings in South Carolina are attempted to be justified.

These resolutions are three in number.

The third seems intended to enumerate, and to deny, the several opinions expressed in the President's proclamation, respecting the nature and powers of this Government. Of this third resolution, I propose at present to take no particular notice.

The first two resolutions of the honorable member affirm these propositions, viz.:

1. That the political system under which we live, and under which Congress is now assembled, is a compact, to which the people of the several States, as separate and sovereign communities, are the parties.

2. That these sovereign parties have a right to judge, each for itself, of any alleged violation of the constitution by Congress; and, in case of such violation, to choose, each for itself, its own mode and measure of redress.

The first resolution declares that the people of the several States "acceded" to the constitution, or to the constitutional compact, as it is called. This word "accede," not found either in the constitution itself, or in the ratification of it by any one of the States, has been chosen for use here, doubtless not without a well considered purpose.

The natural converse of accession is secession; and, therefore, when it is stated that the people of the States acceded to the Union, it may be more plausibly argued that they may secede from it. If, in adopting the constitution, nothing was done but acceding to a compact, nothing would seem necessary, in order to break it up, but to secede from the same compact. But the term is wholly out of place. Accession, as a word applied to political associations, implies coming into a league, treaty, or confederacy, by one hitherto a stranger to it; and secession implies departing from such league or confederacy. The people of the United States have used no such form of expression in establishing the present Government. They do not say that they accede to a league,

but they declare that they ordain and establish a constitution. Such are the very words of the instrument itself; and in all the States, without an exception, the language used by their conventions was, that they "ratified the constitution;" some of them employing the additional words "assented to" and "adopted," but all of them "ratifying." There is more importance than may at first sight appear in the introduction of this new word by the honorable mover of these resolutions. Its adoption and use are indispensable to maintain those premises from which his main conclusion is to be afterwards drawn.

If, Mr. President, in drawing these resolutions, the honorable member had confined himself to the use of constitutional language, there would have been a wide and awful hiatus between his premises and his conclusions. Leaving out the words "compact" and "accession," which are not constitutional modes of expression, and stating the matter precisely as the truth is, his first resolution would have affirmed that the people of the several States ratified this constitution or form of government. These are the very words of South Carolina herself in her own act of ratification. Let, then, his first resolution tell the exact truth; let it state the fact precisely as it exists; let it say that the people of the several States ratified a constitution, or form of government; and then, sir, what will become of his inference in his second resolution, which is in these words, viz.: "That, as in all other cases of compact among sovereign parties, each has an equal right to judge for itself, as well of the infraction as of the mode and measure of redress?" It is obvious, is it not, sir? that this conclusion requires for its support quite other premises; it requires premises which speak of accession and of compact between sovereign powers, and, without such premises, it is altogether unmeaning.

The necessary import of the resolutions, therefore, is, that the United States are connected only by a league; that it is in the good pleasure of every State to decide how long she will choose to remain a member of this league; that any State may determine the extent of her own obligations under it, and accept or reject what shall be decided by the whole; that she may also determine whether her rights have been violated, what is the extent of the injury done her, and what mode and measure of redress her wrongs may make it fit and expedient for her to adopt. The result of the whole is, that any State may secede at pleasure; that any State may resist a law which she herself may choose to say exceeds the power of Congress; and that, as a sovereign power, she may redress her own grievances by her own arm, at her own discretion; she may make reprisals; she may cruise against the property of other members of the league; she may authorize captures, and make open war.

If, sir, this be our political condition, it is time the people of the United States understood it. Let us look for a moment to the practical

consequences of these opinions. One State, holding an embargo law unconstitutional, may declare her opinion, and withdraw from the Union. She secedes. Another, forming and expressing the same judgment on a law laying duties on imports, may withdraw also. She secedes. And as, in her opinion, money has been taken out of the pockets of her citizens illegally, under pretence of this law, and as she has power to redress their wrongs, she may demand satisfaction; and, if refused, she may take it with a strong hand. The gentleman has himself pronounced the collection of duties, under existing laws, to be nothing but robbery. Robbers, of course, may be rightfully dispossessed of the fruits of their flagitious crimes; and, therefore, reprisals, impositions on the commerce of other States, foreign alliances against them, or open war, are all modes of redress justly open to the discretion and choice of South Carolina; for she is to judge of her own rights, and to seek satisfaction for her own wrongs, in her own way.

But, sir, a third State is of opinion, not only that these laws of impost are constitutional, but that it is the absolute duty of Congress to pass and to maintain such laws; and that, by omitting to pass and maintain them, its constitutional obligations would be grossly disregarded. She relinquished the power of protection, she might allege, and allege truly, herself, and gave it up to Congress, on the faith that Congress would exercise it. If Congress now refuse to exercise it, Congress does, as she may insist, break the condition of the grant, and thus manifestly violate the constitution; and for this violation of the constitution, she may threaten to secede also. Virginia may secede, and hold the fortresses in the Chesapeake. The Western States may secede, and take to their own use the public lands. Louisiana may secede, if she choose, form a foreign alliance, and hold the mouth of the Mississippi. If one State may secede, ten may do so—twenty may do so—twenty-three may do so. Sir, as these secessions go on, one after another, what is to constitute the United States? Whose will be the army? Whose the navy? Who will pay the debts? Who fulfil the public treaties? Who perform the constitutional guaranties? Who govern this District and the Territories? Who retain the public property?

Mr. President, every man must see that these are all questions which can arise only after a revolution. They presuppose the breaking up of the Government. While the constitution lasts, they are repressed; they spring up to annoy and startle us only from its grave.

The constitution does not provide for events which must be preceded by its own destruction. Secession, therefore, since it must bring these consequences with it, is revolutionary. And nullification is equally revolutionary. What is revolution? Why, sir, that is revolution which overturns, or controls, or successfully resists the existing public authority; that which arrests

the exercise of the supreme power; that which introduces a new paramount authority into the rule of the State. Now, sir, this is the precise object of nullification. It attempts to supersede the supreme legislative authority. It arrests the arm of the Executive Magistrate. It interrupts the exercise of the accustomed judicial power. Under the name of an ordinance, it declares null and void, within the State, all the revenue laws of the United States. Is not this revolutionary? Sir, so soon as this ordinance shall be carried into effect, a revolution will have commenced in South Carolina. She will have thrown off the authority to which her citizens have heretofore been subject. She will have declared her own opinions and her own will to be above the laws, and above the power of those who are intrusted with their administration. If she makes good these declarations, she is revolutionized. As to her, it is as distinctly a change of the supreme power as the American revolution of 1776. That revolution did not subvert Government in all its forms. It did not subvert local laws and municipal administrations. It only threw off the dominion of a power claiming to be superior, and to have a right, in many important respects, to exercise legislative authority. Thinking this authority to have been usurped or abused, the American colonies, now the United States, bade it defiance, and freed themselves from it by means of a revolution. But that revolution left them with their own municipal laws still, and the forms of local government. If Carolina now shall effectually resist the laws of Congress, if she shall be her own judge, take her remedy into her own hands, obey the laws of the Union when she pleases, and disobey them when she pleases, she will relieve herself from a paramount power as distinctly as did the American colonies in 1776. In other words, she will achieve, as to herself, a revolution.

Such are the inevitable results of this doctrine. Beginning with the original error, that the constitution of the United States is nothing but a compact between sovereign States; asserting, in the next step, that each State has a right to be its own sole judge of the extent of its own obligations, and, consequently, of the constitutionality of laws of Congress; and, in the next, that it may oppose whatever it sees fit to declare unconstitutional, and that it decides for itself on the mode and measure of redress, the argument arrives at once at the conclusion that what a State dissents from, it may nullify; what it opposes, it may oppose by force; what it decides for itself, it may execute by its own power; and that, in short, it is, itself, supreme over the legislation of Congress, and supreme over the decisions of the national judicature; supreme over the constitution of the country, supreme over the supreme law of the land. However it seeks to protect itself against these plain inferences, by saying that an unconstitutional law is no law, and that it only opposes such laws as are unconstitutional, yet this does

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not, in the slightest degree, vary the result; since it insists on deciding this question for itself; and, in opposition to reason and argument, in opposition to practice and experience, in opposition to the judgment of others, having an equal right to judge, it says, only, "Such is my opinion, and my opinion shall be my law, and I will support it by my own strong hand. I denounce the law; I declare it unconstitutional; that is enough; it shall not be executed. Men in arms are ready to resist its execution. An attempt to enforce it shall cover the land with blood. Elsewhere, it may be binding; but here, it is trampled under foot."

This, sir, is practical nullification.

And now, sir, against all these theories and opinions, I maintain—

1. That the constitution of the United States is not a league, confederacy, or compact, between the people of the several States in their sovereign capacities; but a Government proper, founded on the adoption of the people, and creating direct relations between itself and individuals.

2. That no State authority has power to dissolve these relations; that nothing can dissolve them but revolution; and that, consequently, there can be no such thing as secession without revolution.

3. That there is a supreme law, consisting of the Constitution of the United States, acts of Congress passed in pursuance of it, and treaties; and that, in cases not capable of assuming the character of a suit in law or equity, Congress must judge of, and finally interpret, this supreme law, so often as it has occasion to pass acts of legislation; and, in cases capable of assuming, and actually assuming, the character of a suit, the Supreme Court of the United States is the final interpreter.

4. That an attempt by a State to abrogate, annul, or nullify an act of Congress, or to arrest its operation within her limits, on the ground that, in her opinion, such law is unconstitutional, is a direct usurpation on the just powers of the General Government, and on the equal rights of other States; a plain violation of the constitution, and a proceeding essentially revolutionary in its character and tendency.

Whether the constitution be a compact between States in their sovereign capacities, is a question which must be mainly argued from what is contained in the instrument itself. We all agree that it is an instrument which has been, in some way, clothed with power. We all admit that it speaks with authority. The first question then is, what does it say of itself? What does it purport to be? Does it style itself a league, confederacy, or compact between sovereign States? It is to be remembered, sir, that the constitution began to speak only after its adoption. Until it was ratified by nine States, it was but a proposal, the mere draught of an instrument. It was like a deed, drawn, but not executed. The convention had framed it; sent it to Congress, then sitting under the

confederation; Congress had transmitted it to the State Legislatures; and by these last it was laid before conventions of the people in the several States. All this while it was inoperative paper. It had received no stamp of authority, no sanction; it spoke no language. But when ratified by the people in their respective conventions, then it had a voice, and spoke authentically. Every word in it had then received the sanction of the popular will, and was to be received as the expression of that will. What the constitution says of itself, therefore, is as conclusive as what it says on any other point. Does it call itself a compact? Certainly not. It uses the word "compact" but once, and that is when it declares that the States shall enter into no compact. Does it call itself a league, a confederacy, a subsisting treaty between the States? Certainly not. There is not a particle of such language in all its pages. But it declares itself a constitution. What is a constitution? Certainly not a league, compact, or confederacy, but a fundamental law. The fundamental regulation which determines the manner in which the public authority is to be executed, is what forms the constitution of a State. Those primary rules which concern the body itself, and the very being of the political society, the form of Government, and the manner in which power is to be exercised; all, in a word, which form together the constitution of a State—these are the fundamental laws. This, sir, is the language of the public writers. But do we need to be informed, in this country, what a constitution is? Is it not an idea perfectly familiar, definite, and well settled? We are at no loss to understand what is meant by the constitution of one of the States; and the constitution of the United States speaks of itself as being an instrument of the same nature. It says, this constitution shall be the law of the land, any thing in any State constitution to the contrary notwithstanding. And it speaks of itself, too, in plain contradistinction from a confederation; for it says that all debts contracted, and all engagements entered into by the United States, shall be as valid under this constitution as under the confederation. It does not say as valid under this compact, or this league, or this confederation, as under the former confederation; but as valid under this constitution.

There is no language in the whole constitution applicable to a confederation of States. If the States be parties, as States, what are their rights, and what their respective covenants and stipulations? And where are their rights, covenants, and stipulations expressed? The States engage for nothing, they promise nothing. In the articles of confederation they did make promises, and did enter into engagements, and did plight the faith of each State for their fulfilment; but in the constitution there is nothing of that kind. The reason is, that in the constitution it is the people who speak, and not the States. The people ordain the constitution, and therein address themselves to the

States, and to the Legislatures of the States, in the language of injunction and prohibition. The constitution utters its behests in the name and by the authority of the people, and it exacts not from States any plighted public faith to maintain it. On the contrary, it makes its own preservation depend on individual duty and individual obligation. Sir, the States cannot omit to appoint Senators and Electors. It is not a matter resting in State discretion or State pleasure. The constitution has taken better care of its own preservation. It lays its hand on individual conscience and individual duty. It incapacitates any man to sit in the Legislature of a State, who shall not first have taken a solemn oath to support the Constitution of the United States. From the obligation of this oath no State power can discharge him. All the members of all the State Legislatures are as religiously bound to support the Constitution of the United States, as they are to support their own State constitution. Nay, sir, they are as solemnly sworn to support it, as we ourselves are, who are members of Congress.

Can any thing be conceived more preposterous than that any State should have power to nullify the proceedings of the General Government respecting peace and war? When war is declared by a law of Congress can a single State nullify that law, and remain at peace? And yet she may nullify that law as well as any other. If the President and Senate make peace, may one State, nevertheless, continue the war? And yet, if she can nullify a law, she may quite as well nullify a treaty.

The truth is, Mr. President, and no ingenuity of argument, no subtlety of distinction, can evade it, that, as to certain purposes, the people of the United States are one people. They are one in making war, and one in making peace; they are one in regulating commerce, and one in laying duties of impost. The very end and purpose of the constitution was to make them one people in these particulars; and it has effectually accomplished its object. All this is apparent on the face of the constitution itself. I have already said, sir, that to obtain a power of direct legislation over the people, especially in regard to imposts, was always prominent as a reason for getting rid of the confederation, and forming a new constitution. Among the innumerable proofs of this, before the assembling of the convention, allow me to refer only to the report of the committee of the old Congress, July, 1785.

The people, sir, in every State, live under two Governments. They owe obedience to both. These Governments, though distinct, are not adverse. Each has its separate sphere, and its peculiar powers and duties. It is not a contest between two sovereigns for the same power, like the wars of the rival houses in England; nor is it a dispute between a Government *de facto* and a Government *de jure*. It is the case of a division of powers between two Governments, made by the people, to which both are

responsible. Neither can dispense with the duty which individuals owe to the other; neither can call itself master of the other; the people are masters of both. This division of power, it is true, is in a great measure unknown in Europe. It is the peculiar system of America; and, though new and singular, is not incomprehensible. The State constitutions are established by the people of the States. This constitution is established by the people of all the States: How, then, can a State secede? How can a State undo what the whole people have done? How can she absolve her citizens from their obedience to the laws of the United States? How can she annul their obligations and oaths? How can the members of her Legislature renounce their own oaths? Sir, secession, as a revolutionary right, is intelligible; as a right to be proclaimed amidst civil commotions, and asserted at the head of armies, I can understand it. But as a practical right, existing under the constitution, and in conformity with its provisions, it seems to me to be nothing but a plain absurdity; for it supposes resistance to Government, under the authority of Government itself; it supposes dismemberment, without violating the principles of union; it supposes opposition to law, without crime; it supposes the violation of oaths, without responsibility; it supposes the total overthrow of Government, without revolution.

The constitution, sir, regards itself as perpetual and immortal. It seeks to establish a union among the people of the States, which shall last through all time. Or, if the common fate of things human must be expected, at some period, to happen to it, yet that catastrophe is not anticipated.

The instrument contains ample provisions for its amendment, at all times; none for its abandonment, at any time. It declares that new States may come into the Union, but it does not declare that old States may go out. The Union is not a temporary partnership of States. It is the association of the people, under a constitution of Government, uniting their power, joining together their highest interests, cementing their present enjoyments, and blending, in one indivisible mass, all their hopes for the future. Whatsoever is steadfast in just political principles, whatsoever is permanent in the structure of human society, whatsoever there is which can derive an enduring character from being founded on deep-laid principles of constitutional liberty, and on the broad foundations of the public will—all these unite to entitle this instrument to be regarded as a permanent constitution of Government.

In the next place, Mr. President, I contend that there is a supreme law of the land, consisting of the constitution, acts of Congress passed in pursuance of it, and the public treaties. This will not be denied, because such are the very words of the constitution. But I contend further, that it rightfully belongs to Congress, and to the courts of the United States, to settle the

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construction of this supreme law, in doubtful cases. This is denied; and here arises the great practical question, who is to construe finally the Constitution of the United States? We all agree that the constitution is the supreme law; but who shall interpret the law? In our system of the division of powers between different Governments, controversies will necessarily sometimes arise respecting the extent of the powers of each. Who shall decide these controversies? Does it rest with the General Government, in all or any of its departments, to exercise the office of final interpreter? Or may each of the States, as well as the General Government, claim this right of ultimate decision? The practical result of this whole debate turns on this point. The gentleman contends that each State may judge for itself of any alleged violation of the constitution, and may finally decide for itself, and may execute its own decisions by its own power. All the recent proceedings in South Carolina are founded on this claim of right. Her convention has pronounced the revenue laws of the United States unconstitutional; and this decision she does not allow any authority to the United States to overrule or reverse. Of course, she rejects the authority of Congress, because the very object of the ordinance is to reverse the decision of Congress; and she rejects, too, the authority of the courts of the United States, because she expressly prohibits all appeal to those courts. It is in order to sustain this asserted right of being her own judge, that she pronounces the Constitution of the United States to be but a compact, to which she is a party, and a sovereign party. If this be established, then the inference is supposed to follow, that, being sovereign, there is no power to control her decision, and her own judgment on her own compact is and must be conclusive.

I have already endeavored, sir, to point out the practical consequences of this doctrine, and to show how utterly inconsistent it is with all ideas of regular government, and how soon its adoption would involve the whole country in revolution and absolute anarchy. I hope it is easy now to show, sir, that a doctrine, bringing such consequences with it, is not well founded; that it has nothing to stand upon but theory and assumption; and that it is refuted by plain and express constitutional provisions. I think the Government of the United States does possess, in its appropriate departments, the authority of final decision on questions of disputed power. I think it possesses this authority, both by necessary implication and by express grant.

It will not be denied, sir, that this authority naturally belongs to all governments. They all exercise it from necessity, and as a consequence of the exercise of other powers. The State Governments themselves possess it, except in that class of questions which may arise between them and the General Government, and in regard to which they have surrendered

it, as well by the nature of the case as by clear constitutional provisions. In other and ordinary cases, whether a particular law be in conformity to the constitution of the State, is a question which the State Legislature or the State Judiciary must determine. We all know that these questions arise daily in the State Governments, and are decided by those Governments; and I know no Government which does not exercise a similar power.

Upon general principles, then, the Government of the United States possesses this authority; and this would hardly be denied, were it not that there are other Governments. But since there are State Governments, and since these, like other Governments, ordinarily construe their own powers, if the Government of the United States construes its own powers also, which construction is to prevail, in the case of opposite constructions? And again, as in the case now actually before us, the State Governments may undertake, not only to construe their own powers, but to decide directly on the extent of the powers of Congress. Congress has passed a law, as being within its just powers; South Carolina denies that this law is within its just powers, and insists that she has the right so to decide this point, and that her decision is final. How are these questions to be settled?

In my opinion, sir, even if the Constitution of the United States had made no express provision for such cases, it would yet be difficult to maintain that, in a constitution existing over four-and-twenty States, with equal authority over all, one could claim a right of construing it for the whole. This would seem a manifest impropriety; indeed, an absurdity. If the constitution is a Government existing over all the States, though with limited powers, it necessarily follows that, to the extent of those powers, it must be supreme. If it be not superior to the authority of a particular State, it is not a National Government. But as it is a Government, as it has a legislative power of its own, and a judicial power coextensive with the legislative, the inference is irresistible, that this Government, thus created by the whole and for the whole, must have an authority superior to that of the particular Government of any one part. Congress is the legislature of all the people of the United States; the Judiciary of the General Government is the Judiciary of all the people of the United States. To hold, therefore, that this Legislature and this Judiciary are subordinate in authority to the Legislature and Judiciary of a single State, is doing violence to all common sense, and overturning all established principles. Congress must judge of the extent of its own powers, so often as it is called on to exercise them, or it cannot act at all; and it must act also independent of State control, or it cannot act at all.

The right of State interposition strikes at the very foundation of the legislative power of Congress. It possesses no effective legislative

power, if such right of State interposition exists; because it can pass no law not subject to abrogation. It cannot make laws for the Union, if any part of the Union may pronounce its enactments void and of no effect. Its form of legislation would be an idle ceremony, if, after all, any one of four-and-twenty States might bid defiance to its authority. Without express provision in the constitution, therefore, sir, this whole question is necessarily decided by those provisions which create a legislative power and a judicial power. If these exist in a Government intended for the whole, the inevitable consequence is, that the laws of this legislative power, and the decisions of this judicial power, must be binding on and over the whole. No man can form the conception of a Government existing over four-and-twenty States, with a regular legislative and judicial power, and of the existence, at the same time, of an authority, residing elsewhere, to resist, at pleasure or discretion, the enactments and the decisions of such a Government. I maintain, therefore, sir, that, from the nature of the case, and as an inference wholly unavoidable, the acts of Congress, and the decisions of the national courts, must be of higher authority than State laws and State decisions. If this be not so, there is, there can be, no General Government.

But, Mr. President, the constitution has not left this cardinal point without full and explicit provisions. First, as to the authority of Congress. Having enumerated the specific powers conferred on Congress, the constitution adds, as a distinct and substantive clause, the following, viz.: "To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this constitution in the Government of the United States, or in any department or officer thereof." If this means any thing, it means that Congress may judge of the true extent and just interpretation of the specific powers granted to it; and may judge also of what is necessary and proper for executing those powers. If Congress is to judge of what is necessary for the execution of its powers, it must, of necessity, judge of the extent and interpretation of those powers.

And in regard, sir, to the Judiciary, the constitution is still more express and emphatic. It declares that the judicial power shall extend to all cases in law or equity arising under the constitution, laws of the United States, and treaties; that there shall be one Supreme Court; and that this Supreme Court shall have appellate jurisdiction of all these cases subject to such exceptions as Congress may make. It is impossible to escape from the generality of these words. If a case arises under the constitution, that is, if a case arises depending on the construction of the constitution, the judicial power of the United States extends to it. It reaches the case, the question; it attaches the power of the national judicature to the case itself, in whatever court it may arise or exist;

and in this case the Supreme Court has appellate jurisdiction over all courts whatever. No language could provide, with more effect and precision than is here done, for subjecting constitutional questions to the ultimate decision of the Supreme Court. And, sir, this is exactly what the convention found it necessary to provide for, and intended to provide for. It is, too, exactly what the people were universally told was done, when they adopted the constitution. One of the first resolutions adopted by the convention was in these words, viz.: "That the jurisdiction of the National Judiciary shall extend to cases which respect the collection of the national revenue, and questions which involve the national peace and harmony." Now, sir, this either had no sensible meaning at all, or else it meant that the jurisdiction of the National Judiciary should extend to these questions, with a paramount authority. It is not to be supposed that the convention intended that the power of the National Judiciary should extend to these questions, and that the judicatures of the States should also extend to them with equal power of final decision. This would be to defeat the whole object of the provision. There were thirteen judicatures already in existence. The evil complained of, or the danger to be guarded against, was contradiction and repugnance in the decisions of these judicatures. If the framers of the constitution meant to create a fourteenth, and yet not to give it power to revise and control the decisions of the existing thirteen, then they only intended to augment the existing evil and the apprehended danger, by increasing still further the chances of discordant judgments. Why, sir, has it become a settled axiom in politics, that every Government must have a judicial power coextensive with its legislative power? Certainly, there is only this reason, viz.: that the laws may receive a uniform interpretation and a uniform execution. This object can be no otherwise attained. A statute is what it is judiciously interpreted to be; and if it be construed one way in New Hampshire, and another way in Georgia, there is no uniform law. One Supreme Court, with appellate and final jurisdiction, is the natural and only adequate means in any Government, to secure this uniformity. The convention saw all this clearly; and the resolution which I have quoted, never afterwards rescinded, passed through various modifications, till it finally received the form which the article now wears in the constitution. It is undeniably true, then, that the framers of the constitution intended to create a national judicial power, which should be permanent, on national subjects. And after the constitution was framed, and while the whole country was engaged in discussing its merits, one of its most distinguished advocates (Mr. Madison) told the people that it was true that, in controversies relating to the boundary between the two jurisdictions, the tribunal which is ultimately to decide is to be established under the General

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Government. Mr. Martin, who had been a member of the convention, asserted the same thing to the Legislature of Maryland, and urged it as a reason for rejecting the constitution. Mr. Pinckney himself, also a leading member of the convention, declared it to the people of South Carolina. Everywhere it was admitted, by friends and foes, that this power was in the constitution. By some it was thought dangerous, by most it was thought necessary; but by all it was agreed to be a power actually contained in the instrument. The convention saw the absolute necessity of some control in the National Government over State laws. Different modes of establishing this control were suggested and considered. At one time it was proposed that the laws of the States should, from time to time, be laid before Congress, and that Congress should possess a negative over them. But this was thought inexpedient and inadmissible; and in its place, and expressly as a substitute for it, the existing provision was introduced; that is to say, a provision by which the courts federal should have authority to overrule such State laws as might be in manifest contravention of the constitution. The writers of the Federalist, in explaining the constitution, while it was yet pending before the people, and still unadopted, give this account of the matter in terms, and assign this reason for the article as it now stands. By this provision, Congress escaped from the necessity of any revision of State laws, left the whole sphere of State legislation quite untouched, and yet obtained a security against any infringement of the constitutional power of the General Government. Indeed, sir, allow me to ask again, if the National Judiciary was not to exercise a power of revision, on constitutional questions, over the judicatures of the States, why was any national judicature erected at all? Can any man give a sensible reason for having a judicial power in this Government, unless it be for the sake of maintaining a uniformity of decision on questions arising under the constitution and laws of Congress, and insuring its execution? And does not this very idea of uniformity necessarily imply that the construction given by the national courts is to be the prevailing construction? How else, sir, is it possible that uniformity can be preserved?

Nullification, sir, is as distinctly revolutionary as secession; but I cannot say that the revolution which it seeks is one of so respectable a character. Secession would, it is true, abandon the constitution altogether; but then it would profess to abandon it. Whatever other inconsistencies it might run into, one, at least, it would avoid. It would not belong to a Government, while it rejected its authority. It would not repel the burden, and continue to enjoy the benefits. It would not aid in passing laws which others are to obey, and yet reject their authority as to itself. It would not undertake to reconcile obedience to public authority, with an asserted right of command

over that same authority. It would not be in the Government, and above the Government, at the same time. But however more respectable a mode secession may be, it is not more truly revolutionary than the actual execution of the doctrines of nullification. Both, and each, resist the constitutional authorities; both, and each, would sever the Union, and subvert the Government.

Mr. President, having detained the Senate so long already, I will now examine, at length, the ordinance and laws of South Carolina. These papers are well drawn for their purpose. Their authors understood their own objects. They are called a peaceable remedy, and we have been told that South Carolina, after all, intends nothing but a lawsuit. A very few words, sir, will show the nature of this peaceable remedy, and of the lawsuit which South Carolina contemplates.

In the first place, the ordinance declares the law of last July, and all other laws of the United States laying duties, to be absolutely null and void, and makes it unlawful for the constituted authorities of the United States to enforce the payment of such duties. It is, therefore, sir, an indictable offence, at this moment, in South Carolina, for any person to be concerned in collecting revenue, under the laws of the United States. It being declared unlawful to collect these duties by what is considered a fundamental law of the State, an indictment lies, of course, against any one concerned in such collection; and he is, on general principles, liable to be punished by fine and imprisonment. The terms, it is true, are, that it is unlawful "to enforce the payment of duties;" but every custom-house officer enforces payment when he detains the goods in order to obtain such payment. The ordinance, therefore, reaches everybody concerned in the collection of the duties.

This is the first step in the prosecution of the peaceable remedy. The second is more decisive. By the act commonly called the replevin law, any person, whose goods are seized or detained by the collector for the payment of duties, may sue out a writ of replevin, and, by virtue of that writ, the goods are to be restored to him. A writ of replevin is a writ which the sheriff is bound to execute, and for the execution of which he is bound to employ force, if necessary. He may call out the *posse*, and must do so, if resistance be made. This *posse* may be armed or unarmed. It may come forth with military array, and under the lead of military men. Whatever number of troops may be assembled in Charleston, they may be summoned, with the Governor or commander-in-chief at their head, to come in aid of the sheriff. It is evident then, sir, that the whole military power of the State is to be employed, whenever necessary, in dispossessing the custom-house officers, and in seizing and holding the goods without paying the duties. This is the second step in the peaceable remedy

Sir, whatever pretences may be set up to the contrary, this is the direct application of force, and of military force. It is unlawful, in itself, to replevy goods into the custody of the collectors. But this unlawful act is to be done, and it is to be done by power. Here is a plain interposition, by physical force, to resist the laws of the Union. The legal mode of collecting duties is to detain goods till such duties are paid or secured. But force comes and overpowers the collector and his assistants, and takes away the goods, leaving the duties unpaid. There cannot be a clearer case of forcible resistance to law. And it is provided that the goods thus seized shall be held against any attempt to retake them, by the same force which seized them.

Having thus dispossessed the officers of the Government of the goods, without payment of duties, and seized and secured them by the strong arm of the State, only one thing more remained to be done, and that is, to cut off all possibility of legal redress; and that, too, is accomplished, or thought to be accomplished. The ordinance decrees, that all judicial proceedings founded on the revenue laws (including, of course, proceedings in the courts of the United States) shall be null and void. This nullifies the judicial power of the United States. Then comes the test oath act. This requires all State judges and jurors in the State courts to swear that they will execute the ordinance, and all acts of the Legislature passed in pursuance thereof. The ordinance declares that no appeal shall be allowed from the decision of the State courts to the Supreme Court of the United States; and the replevin act makes it an indictable offence for any clerk to furnish a copy of the record, for the purpose of such appeal.

The two principal provisions on which South Carolina relies, to resist the laws of the United States, and nullify the authority of this Government, are, therefore, these:

1. A forcible seizure of goods before the duties are paid or secured, by the power of the State, civil and military.

2. The taking away, by the most effectual means in her power, of all legal redress in the courts of the United States; the confining all judicial proceedings to her own State tribunals; and the compelling of her judges and jurors of these her own courts to take an oath beforehand that they will decide all cases according to the ordinance, and the acts passed under it; that is, that they will decide the cause one way. They do not swear to try it on its own merits; they only swear to decide it as nullification requires.

The character, sir, of these provisions defies comment. Their object is as plain as their means are extraordinary. They propose direct resistance, by the whole power of the State, to laws of Congress; to cut off, by methods deemed adequate, any redress by legal and judicial authority. They arrest legislation, defy the executive, and banish the judicial power of this

Government. They authorize and command acts to be done, and done by force, both of numbers and of arms, which, if done, and done by force, are clearly acts of rebellion and treason.

Such, sir, are the laws of South Carolina; such, sir, is the peaceable remedy of nullification. Has not nullification reached, sir, even thus early, that point of direct and forcible resistance to law, to which I intimated, three years ago, it plainly tended?

And now, Mr. President, what is the reason for passing laws like these? What are the oppressions experienced under the Union, calling for measures which thus threaten to sever and destroy it? What invasions of public liberty, what ruin to private happiness, what long list of rights violated, or wrongs unredressed, are to justify to the country, to posterity, and to the world, this assault upon the free Constitution of the United States, this great and glorious work of our fathers? At this very moment, sir, the whole land smiles in peace, and rejoices in plenty. A general and a high prosperity pervades the country; and, judging by the common standard, by increase of population and wealth; or judging by the opinions of that portion of her people not embarked in those dangerous and desperate measures, this prosperity overspreads South Carolina herself.

Thus, happy at home, our country, at the same time, holds high the character of her institutions, her power, her rapid growth, and her future destiny, in the eyes of all foreign States. One danger only creates hesitation; one doubt only exists to darken the otherwise unclouded brightness of that aspect, which she exhibits to the view and to the adoration of the world. Need I say that that doubt respects the permanency of our Union? and need I say that that doubt is now caused, more than by any thing else, by these very proceedings of South Carolina? Sir, all Europe is, at this moment, beholding us, and looking for the issue of this controversy; those who hate free institutions, with malignant hope; those who love them, with deep anxiety and shivering fear.

The cause, then, sir, the cause! Let the world know the cause which has thus induced one State of the Union to bid defiance to the power of the whole, and openly to talk of secession.

Sir, the world will scarcely believe that this whole controversy, and all the desperate measures which its support requires, have no other foundation than a difference of opinion, upon a provision of the constitution, between a majority of the people of South Carolina, on one side, and a vast majority of the whole people of the United States on the other. It will not credit the fact, it will not admit the possibility, that, in an enlightened age, in a free, popular republic, under a Government where the people govern, as they must always govern, under such systems, by majorities, at a time of unprecedented happiness, without practical oppres-

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sion, without evils, such as may not only be pretended, but felt and experienced,—evils not slight or temporary, but deep, permanent, and intolerable,—a single State should rush into conflict with all the rest, attempt to put down the power of the Union by her own laws, and to support those laws by her military power, and thus break up and destroy the world's last hope. And well the world may be incredulous. We, who hear and see it, can ourselves hardly yet believe it. Even after all that had preceded it, this ordinance struck the country with amazement. It was incredible and inconceivable, that South Carolina should thus plunge headlong into resistance to the laws, on a matter of opinion, and on a question in which the preponderance of opinion, both of the present day and of all past time, was so overwhelmingly against her. The ordinance declares that Congress has exceeded its just power, by laying duties on imports, intended for the protection of manufactures. This is the opinion of South Carolina; and on the strength of that opinion she nullifies the laws. Yet has the rest of the country no right to its opinions also? Is one State to sit sole arbitress? She maintains that those laws are plain, deliberate, and palpable violations of the constitution; that she has a sovereign right to decide this matter; and that, having so decided, she is authorized to resist their execution by her own sovereign power; and she declares that she will resist it, though such resistance should shatter the Union into atoms.

Mr. President, I do not intend to discuss the propriety of these laws at large; but I will ask, how are they shown to be thus plainly and palpably unconstitutional? Are they quite new in the history of the Government? Have they no countenance at all in the constitution itself? Are they a sudden and violent usurpation on the rights of the States? Sir, what will the civilized world say, what will posterity say, when they learn that similar laws have existed from the very foundation of the Government; that for thirty years the power never was questioned; and that no State in the Union has more freely and unequivocally admitted it than South Carolina herself?

To lay and collect duties and imposts is an express power, granted by the constitution to Congress. It is also an exclusive power; for the constitution as expressly prohibits all the States from exercising it themselves. This express and exclusive power is unlimited in the terms of the grant, but it is attended with two specific restrictions: first, that all duties and imposts shall be equal in all the States; second, that no duties shall be laid on exports. The power, then, being granted, and being attended with these two restrictions, and no more, who is to impose a third restriction on the general words of the grant? If the power to lay duties, as known among all other nations, and as known in all our history, and as it was perfectly understood when the constitution was

adopted, includes a right of discriminating, while exercising the power, and of laying some duties heavier and some lighter, for the sake of encouraging our own domestic products, what authority is there for giving to the words used in the constitution a new, narrow, and unusual meaning? All the limitations which the constitution intended, it has expressed; and what it has left unrestricted, is as much a part of its will as the restraints which it has imposed.

But these laws, it is said, are unconstitutional on account of the motive. How, sir, can a law be examined on any such ground? How is the motive to be ascertained? One House, or one member, may have one motive; the other House, or another member, another. One motive may operate to-day, and another to-morrow. Upon any such mode of reasoning as this, one law might be unconstitutional now, and another law, in exactly the same words, perfectly constitutional next year. Besides, articles may only be taxed for the purpose of protecting home products, but other articles may be left free, for the same purpose, and with the same motive. A law, therefore, would become unconstitutional from what it omitted as well as from what it contained. Mr. President, it is a settled principle, acknowledged in all legislative halls, recognized before all tribunals, sanctioned by the general sense and understanding of mankind, that there can be no inquiry into the motives of those who pass laws, for the purpose of determining on their validity. If the law be within the fair meaning of the words in the grant of power, its authority must be admitted until it is repealed. This rule, everywhere acknowledged, everywhere admitted, is so universal, and so completely without exception, as that even an allegation of fraud in the majority of a Legislature is not allowed as a ground to set aside a law.

But, sir, is it true that the motive for these laws is such as is stated? I think not. The great object of all these laws is, unquestionably, revenue. If there were no occasion for revenue, the laws would not have been passed; and it is notorious that almost the entire revenue of the country is derived from them. And, as yet, we have collected none too much revenue. The treasury has not been more exhausted for many years than at this moment. All that South Carolina can say is, that in passing the laws which she now undertakes to nullify, particular articles were taxed from a regard to the protection of domestic articles, higher than they would have been had no such regard been entertained. And she insists that, according to the constitution, no such discrimination can be allowed; that duties should be laid for revenue, and revenue only; and that it is unlawful to have reference, in any case, to protection. In other words, she denies the power of discrimination. She does not, and cannot, complain of excessive taxation; on the contrary, she professes to be willing to pay any amount for revenue, merely

as revenue; and up to the present moment there is no surplus of revenue. Her grievance, then, that plain and palpable violation of the constitution which she insists has taken place, is simply the exercise of the power of discrimination. Now, sir, is the exercise of this power of discrimination plainly and palpably unconstitutional? I have already said the power to lay duties is given by the constitution in broad and general terms. There is also conferred on Congress the whole power of regulating commerce in another distinct provision. Is it clear and palpable, sir—can any man say it is a case beyond doubt—that under these two powers Congress may not justly discriminate in laying duties for the purpose of countervailing the policy of foreign nations, or of favoring our own home productions? Sir, what ought to conclude this question forever, as it would seem to me, is, that the regulation of commerce, and the imposition of duties, are, in all commercial nations, powers avowedly and constantly exercised for this very end.

Mr. President, if the friends of nullification should be able to propagate their opinions, and give them practical effect, they would, in my judgment, prove themselves the most skillful "architects of ruin," the most effectual extinguishers of high-raised expectation, the greatest blasters of human hopes, which any age has produced. They would stand up to proclaim, in tones which would pierce the ears of half the human race, that the last great experiment of representative government had failed. They would send forth sounds, at the hearing of which the doctrine of the divine right of kings would feel, even in its grave, a returning sensation of vitality and resuscitation. Millions of eyes, of those who now feed their inherent love of liberty on the success of the American example, would turn away from beholding our dismemberment, and find no place on earth whereon to rest their gratified sight. Amidst the incantations and orgies of nullification, secession, disunion, and revolution, would be celebrated the funeral rites of constitutional and republican liberty.

But, sir, if the Government do its duty; if it act with firmness and with moderation, these opinions cannot prevail. Be assured, sir, be assured, that, among the political sentiments of this people, the love of union is still uppermost. They will stand fast by the constitution, and by those who defend it. I rely on no temporary expedients—on no political combination—but I rely on the true American feeling, the genuine patriotism of the people, and the imperative decision of the public voice. Disorder and confusion, indeed, may arise; scenes of commotion and contest are threatened, and perhaps may come. With my whole heart I pray for the continuance of the domestic peace and quiet of the country. I desire most ardently the restoration of affection and harmony to all its parts. I desire that every citizen of the whole country may look to this Government with no

other sentiments but those of grateful respect and attachment. But I cannot yield, even to kind feelings, the cause of the constitution, the true glory of the country, and the great trust which we hold in our hands for succeeding ages. If the constitution cannot be maintained without meeting these scenes of commotion and contest, however unwelcome, they must come. We cannot, we must not, we dare not, omit to do that which, in our judgment, the safety of the Union requires. Not regardless of consequences, we must yet meet consequences; seeing the hazards which surround the discharge of public duty, it must yet be discharged. For myself, sir, I shun no responsibility justly devolving on me, here or elsewhere, in attempting to maintain the cause. I am tied to it by indissoluble bands of affection and duty, and I shall cheerfully partake in its fortunes and its fate. I am ready to perform my own appropriate part whenever and wherever the occasion may call on me, and take my chance among those upon whom blows may fall first and fall thickest. I shall exert every faculty I possess in aiding to prevent the constitution from being nullified, destroyed, or impaired; and even should I see it fall, I will still, with a voice, feeble, perhaps, but earnest as ever issued from human lips, and with fidelity and zeal which nothing shall extinguish, call on the PEOPLE to come to its rescue.

MONDAY, February 18.

Revenue Collection Bill—Nullification.

The Senate then proceeded to consider the bill to provide further for the collection of the duties on imports.

Mr. POINDEXTER, who was entitled to the floor, rose and said he was compelled to decline any participation in the debate at this time, on account of the state of his health. If the subject should be postponed, he hoped to be able at another time to address the Senate in relation to it.

The CHAIR having stated the question to be, "Shall this bill be ordered to be engrossed and read a third time?"

Mr. CALHOUN said he had not anticipated this question for this morning. When it was put, he hoped there would be a full Senate. He moved the postponement of the further consideration of the bill till to-morrow.

Mr. FOSTER hoped the postponement would not take place, as the session was drawing to a close. He had a desire to address the Senate on the question before it, but was not disposed to do it to-day. He had come here this morning, expecting to hear the honorable Senator from Mississippi. He would suggest that, if no additional amendments were to be offered, the bill should be passed to a third reading, and discussed on its passage.

Mr. CALHOUN.—The third reading of a bill, as the Senator knows, is the most trying question.

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The Tariff—Reduction of Duties—Compromise Bill.

[SENATE.]

Having a solemn conviction of the importance of the question, I wish it to be taken in full Senate. He had no other object, than to procure a full discussion of the measure, and he regretted the inability of the Senator from Mississippi to proceed at present. If any gentleman wished to offer an amendment, or to address the Senate, he would withdraw his motion to postpone.

The motion having been withdrawn,

Mr. FORSYTH commenced a series of observations, which he continued until three o'clock. His argument, commencing with the precise motion before the Senate, gradually expanded into a view of the whole subject under debate. As regarded the exciting question of nullification, that doctrine he held was untenable. No individual State possessed the right of nullification from any sovereignty residing in her. Sovereignty, he contended, did not exist in the States, separately or individually, since the Union. Since that period, it resided in the United States as a whole; and by them alone could it be exercised, and in the mode defined by the constitution. Much ingenuity had been called forth in support of nullification; but mystify it as they pleased, it could not stand the test of argument. The doctrine was preposterous; it was a mere web of sophism and casuistry. And the arguments in its favor, if analyzed, and put through the alembic, would result in the double distilled essence of nonsense. But having thus denounced nullification he would admit that the position which South Carolina had taken had served one good purpose, that of opening the eyes of the country to the injustice done to the South by an odious and oppressive tariff. As regarded the tariff, the whole South were with South Carolina, in the general principle of resistance to it; but they differed from her in the mode which she had thought fit to adopt. But if the tariff was odious, and must finally be put an end to, neither could the course of South Carolina be defended, or tolerated, with safety to the Union. He looked forward in anticipation to the period as nigh at hand, when the protective system must expire, and, in like manner, when nullification would sink into the grave. He hoped soon to see them buried in the same tomb; and willingly would he then pronounce their funeral oration, and inscribe on their monument the epitaph—"requiescat in pace."

[After some further discussion, and after the offering and rejection of a number of amendments to the bill:]

The Chair put the question, "Shall this bill be engrossed and read a third time?" which was decided in the affirmative, 32 to 8, by the following vote:

YEA.—Messrs. Bell, Buckner, Chambers, Clayton, Dallas, Dickerson, Dudley, Ewing, Foot, Forsyth, Frelinghuysen, Grundy, Hendricks, Hill, Holmes, Johnston, Kane, Naudain, Prentiss, Rives, Robbins, Robinson, Ruggles, Silsbee, Smith,

Sprague, Tipton, Tomlinson, Webster, White, Wilkins, Wright—32.

NAYS.—Messrs. Bibb, Calhoun, King, Mangum, Miller, Moore, Troup, Tyler—8.

The Senate then, at half after 11 o'clock P. M., adjourned.

TUESDAY, February 19.

The Tariff.

Mr. CLAY, from the Select Committee to which was referred the bill to modify the several acts imposing duties on imports, reported the bill with various amendments.

Mr. C. then stated, that he was also authorized to say that at a proper time another amendment would be offered on the subject of the valuation of goods, which would be calculated to conciliate the conflicting opinions which had prevailed in reference to that point. He was happy to say that, although there was so short an interval for the action of the two Houses on this bill, the committee entertained strong hopes that it would be found practicable to effect some accommodation of this question before the close of the present session. He was directed to move that the amendments be printed, and further to move that the bill and amendments be made the special order for to-morrow, with the understanding that if the measure now pending before the Senate should not be disposed of by that time, the bill now reported would not be pressed to interfere with that discussion.

The amendments were then ordered to be printed, and the bill and amendments were made the special order for to-morrow.

THURSDAY, February 21.

The Tariff—Reduction of Duties—Compromise Bill.

Mr. CLAY moved to take up the special order, being the bill "to modify the act of the 14th of July, 1832, and all other acts imposing duties on imports;" which being agreed to, the bill was then taken up in Committee of the Whole, as amended by the select committee to whom it was referred, as follows:

[The bill omitted. Its leading provisions were: a periodical annual reduction of one-tenth of the present duties for seven years, after which all the remaining duty above 20 per centum on the value should be equally divided into two parts, and part struck off at the end of one year thereafter, and the other half at the end of another year, so that at the end of nine years all duties should be reduced to 20 per centum on the value, with a list of free articles, and no more revenue to be raised than necessary for the economical support of the Government. The act to be permanent.]

Mr. CLAY now rose to propose the amendment of which he had previously given notice.

The object was, that after the period prescribed by the bill, all duties should thereafter be assessed on a valuation made at the port in which the goods are first imported, and under "such regulations as may be prescribed by law." Mr. C. said it would be seen by this amendment, that in place of having foreign valuation, it was intended to have a home one. It was believed by the friends of the protective system, that such a regulation was necessary. It was believed by many of the friends of the system, that after the period of nine and a half years, the most of our manufactures will be sufficiently grown to be able to support themselves under a duty of twenty per cent. if properly laid; but that under a system of foreign valuation, such would not be the case. They say that it would be more detrimental to their interests than the lowest scale of duties that could be imposed; and you propose to fix a standard of duties. They are willing to take you at your word, provided you regulate this in a way to do them justice.

Mr. SMITH opposed the amendment, on the ground that it would be an increase of duties; that it had been tried before; that it would be impracticable, unequal, unjust, and productive of confusion, inasmuch as imported goods were constantly varying in value, and were well known to be, at all times, cheaper in New York than in the commercial cities south of it. This would have the effect of drawing all the trade of the United States to New York.

Mr. CALHOUN said he regretted, exceedingly, that the Senator from Kentucky had felt it his duty to move the amendment. According to his present impressions, the objections to it were insurmountable; and, unless these were removed, he should be compelled to vote against the whole bill should the amendment be adopted. The measure proposed was, in his opinion, unconstitutional. The constitution expressly provided that no preference should be given, by any regulation of commerce, to the ports of one State over those of another; and this would be the effect of adopting the amendment. Thus, great injustice and inequality must necessarily result from it; for, the price of goods being cheaper in the northern than in the southern cities, a home valuation would give to the former a preference in the payment of duties. Again, the price of goods being higher at New Orleans and Charleston than at New York, the freight and insurance also being higher, together with the increased expenses of a sickly climate, would give such advantages in the amount of duties to the northern city, as to draw to it much of the trade of the southern ones. In his view of the subject, this was not all. He was not merchant enough to say what would be the extent of duties under this system of home valuation; but, as he understood it, they must, of consequence, be progressive. For instance, an article is brought into New York, value there 100 dollars. Twenty per cent. on that would raise the value of

the article to one hundred and twenty dollars, on which value a duty of twenty per cent. would be assessed at the next importation, and so on. It would, therefore, be impossible to say to what extent the duties would run up. He regretted the more that the Senator from Kentucky had felt it his duty to offer this amendment, as he was willing to leave the matter to the decision of a future Congress, though he did not see how they could get over the insuperable constitutional objections he had glanced at. Mr. C. appealed to the Senator from Kentucky, whether, with these views, he would press his amendment, when he had eight or nine years in advance before it could take effect. He understood the argument of the Senator from Kentucky to be an admission that the amendment was not now absolutely necessary. With respect to the apprehension of frauds on the revenue, Mr. C. said that every future Congress would have the strongest disposition to guard against them. The very reduction of duties, he said, would have that effect; it would strike at the root of the evil. Mr. C. said he agreed with the Senator from Kentucky, that this bill will be the final effort at conciliation and compromise; and he, for one, was not disposed, if it passed, to violate it by future legislation.

Mr. CLAYTON could not vote for this bill without this amendment, nor would he admit any idea of an abandonment of the protective system; while he was willing to pass this measure, as one of concession from the stronger to the weaker party, he never could agree that twenty per cent. was adequate protection to our domestic manufactures. He had been anxious to do something to relieve South Carolina from her present perilous position; though he had never been driven by the taunts of southern gentlemen to do that, which he now did, for the sake of conciliation.

Mr. DALLAS was opposed to the proposition from the committee, and agreed with Mr. CALHOUN. He would state briefly his objection to the proposition of the committee. Although he was from a State strongly disposed to maintain the protective policy, he labored under an impression, that if any thing could be done to conciliate the Southern States, it was his duty to go for a measure for that purpose; but he should not go beyond it. He could do nothing in this way, as representing his particular district of the country, but only for the general good. He could not agree to incorporate in the bill any principle which he thought erroneous or improper. He would sanction nothing in the bill as an abandonment of the principle of protection. Mr. D. then made a few remarks on home and foreign valuation, to show the ground of his objections to the amendment of Mr. CLAY, though it did not prevent his strong desire to compromise and conciliation.

Mr. FORSYTH was opposed to the Senate deciding a question for their successors. He was opposed to putting any thing into the bill which was bad in theory; but he thought no pledges

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could be given with regard to the future action of Congress.

Mr. KANE objected to the home valuation, as necessarily at variance with the clause in the constitution, which requires that no preference should be made of one port over another.

Mr. SILSBEE entered largely into the details of the subject, and objected to the adoption of a system now, which would go into operation eight years hence.

Mr. CALHOUN said that he listened with great care to the remarks of the gentleman from Kentucky, and other gentlemen, who had advocated the same side, in hopes of having his objection to the mode of valuation proposed in the amendment removed; but he must say, that the difficulties he first expressed still remained. Passing over what seemed to him to be a constitutional objection, he would direct his observation to what appeared to him to be its unequal operation. If by the home valuation be meant the foreign price, with the addition of freight, insurance, and other expenses at the port of destination, it is manifest that as these are unequal between the several ports in the Union—for instance, between the ports of New York and New Orleans—the duty must also be unequal in the same degree, if laid on value thus estimated. But if, by the home valuation, he meant the prices current at the place of importation, then, in addition to the inequality already stated, there would have to be added the additional inequality resulting from the different rates of profits, and other circumstances, which must necessarily render prices very unequal in the several ports of this widely extended country. There would, in the same view, be another and a stronger objection, which he alluded to in his former remarks, which remained unanswered—that the duties themselves constitute part of the elements of the current prices of the imported articles; and that, to impose a duty on a valuation ascertained by the current prices, would be to impose, in reality, a duty upon a duty, and must necessarily produce that increased progression in duties, which he had already attempted to illustrate.

Mr. CLAYTON said, this point had been discussed in the committee; and it was because this amendment was not adopted that he had withheld his assent from the bill. They had now but seven business days of this session remaining; and it would require the greatest unanimity, both in that body and in the other House, to pass any bill on this subject. Were gentlemen coming from the opposite extremes of the Union, and representing opposite interests, to agree to combine together, there would hardly be time to pass this bill into a law; yet if he saw that it could be done, he would gladly go on with the consideration of the bill, and with the determination to do all that could be done. The honorable member from South Carolina had found insuperable obstacles where he

(Mr. C.) had found none. On their part, if they agreed to this bill, it would only be for the sake of conciliation; if South Carolina would not accept the measure in that light, then their motive for arrangement was at an end. He (Mr. C.) apprehended, however, that good might result from bringing the proposition forward at that time. It would be placed before the view of the people, who would have time to reflect and make up their minds upon it against the meeting of the next Congress. He did not hold any man as pledged by their action at this time. If the arrangement was found to be a proper one, the next Congress might adopt it. But, for the reasons he had already stated, he had little hope that any bill would be passed at this session; and, to go on debating it, day after day, would only have the effect of defeating the many private bills and other business which were waiting the action of Congress. He would therefore propose to lay the bill for the present on the table; if it were found, at a future period, before the expiration of the session, that there was a prospect of overcoming the difficulties which now presented themselves, and of acting upon it, the bill might be again taken up. If no other gentleman wished to make any observations on the amendment, he would move to lay the bill on the table.

The Senate then, at half-past four o'clock, adjourned.

FRIDAY, February 22.

The Tariff.

The Senate having resumed the bill to modify the act of 14th July, 1832, and all other laws imposing duties on imports, the question being on Mr. CLAY's amendment, providing that the proposed rate of duty payable after 1842 should be computed upon the value of merchandise at the port of importation,

Mr. HILL regretted very much that the Senator from Kentucky, (Mr. CLAY,) after having gratuitously extended the olive branch, after having been complimented by gentlemen who represented the "aggrieved South," and who could there allay the storm that had been raised by ambitious politicians for mercenary purposes, as a "pacificator" and "mediator," should snatch the cup from the lips of the friends of the Union by interposing an amendment. What is the object of this amendment? So far from affecting the present rate of duties, it does not touch an article for nearly ten years! Nor is it at all binding on any future Congress, let the principle be declared as it will. I could not, were I in any other place, believe gentlemen to be in earnest when they were contending for the points of difference between the bill as it stands, and the bill as it will stand when amended. It can be of no consequence here to discuss the point, whether the public interest will be better consulted by a "home

valuation," ten years hence, or the valuation as now made. I consider the present valuation as virtually a home valuation: if not so, where is the use of appraisers in the several ports as now provided by law? If by the amendment the price of freight is to be added at the several ports; if the prices are to fluctuate from week to week, and from month to month, as goods are plenty or scarce, the amendment ought to be rejected, and no future Congress will regard our mandate for enforcing the adoption of its principles. If it intends the raising of the duties five, ten, or twenty per cent., the people will never suffer any Congress to adopt it.

Mr. WEBSTER held the home valuation to be, to any extent, impracticable; and that it was unprecedented and unknown in any legislation. Both the home and foreign valuation ought to be excluded as far as possible, and specific duties should be resorted to. This keeping out of view specific duties, and turning us back to the principle of a valuation, was, in his view, the great vice of this bill. In England five out of six, or nine out of ten articles, pay specific duties, and the valuation is on the remnant. Among the articles which pay ad valorem duties in England are silk goods, which are imported either from India, whence they are brought to one port only; or from Europe, in which case there is a specific and an ad valorem duty; and the officer has the option to take either the one or the other. He suggested that the Senate, before they adopted the ad valorem principle, should look to the effects on the importation of the country.

He took a view of the iron trade, to show that evil would result to that branch from a substitution of the ad valorem for the specific system of duties. He admitted himself to be unable to comprehend the elements of a home valuation, and mentioned cases where it would be impossible to find an accurate standard of valuation of this character. The plan was impracticable and illusory.

Mr. BENTON objected to the home valuation, as tending to a violation of the Constitution of the United States, and cited the following clause: "Congress shall have power to lay and collect taxes, duties, imposts, and excises; but all duties, imposts, and excises shall be uniform throughout the United States." All uniformity of duties and imposts, he contended, would be destroyed by this amendment. No human judgment could fix the value of the same goods at the same rate in all the various ports of the United States. If the same individual valued the goods in every port, and every cargo in every port, he would commit innumerable errors and mistakes in the valuation; and, according to the diversity of these errors and mistakes, would be the diversity in the amount of duties and imposts laid and collected in the different ports. But it would not be the judgment of one individual that would make all these valuations, but the judgments of hundreds would be required. New York alone would

require scores; other ports a number proportionate to their business; and no port could be trusted with less than two, however insignificant its importations might be. Admitting every appraiser to be skilful, diligent, and honest, it would be impossible but that the grossest variations, in assessing the values of the same goods, must take place in the different ports of the United States, and even in the same ports on different days and different cargoes. But it would be impossible that all the appraisers should be skilful, and especially that they should be skilled in the value of all the infinite variety of commodities which the genius of the artist fabricates in the four quarters of the globe, and which the enterprise of the merchant brings into the United States. So far from this universal, and almost miraculous skill, in all the appraisers, it would turn out, in practice, that many of them would be mere ignoramuses, worked into office by the power and influence of friends, and totally destitute of the knowledge which the place required. Even those who were skilful in one class of commodities might be ignorant of another; the man who was a judge of cotton goods might know nothing of woollens; he that was acquainted with brandies might know nothing of wines; the nice critic in fancy goods might be wholly ignorant of hardware; and so on throughout the whole list of the importations. With or without skill, it would be impossible that every appraiser, in so large a number, should be diligent and faithful. Some may be too indolent and indifferent to take upon themselves the laborious examinations which are indispensable to the formation of correct judgment; some may lack principle, and take a *douceur* from the importer to value his goods low, and depress the duty; or take the same *douceur* from the manufacturers, to value them high, and enhance the duties. Some may take one rule, and some another, for fixing valuations; some may consult invoices; some may go to auctioneers; some to men in business; others to men out of business; and some may consult nobody, but rely upon the view of their own eyes, the touch of their own fingers, and the taste of their own tongues, for the quality and value of every thing that comes in their way. Such must be the appraisers; and in such hands an infinite diversity of values must be placed upon the same goods in different ports, and a corresponding diversity must accrue in the amount of duties and imposts levied and collected upon them.

Mr. B. objected to the home valuation, because it would destroy the effect, and turn into a mere illusion the ultimate reduction to twenty per cent., which the bill proposed, and which was the only inducement with anti-tariff members for bearing with the heavy duties which are to be kept up for the first seven years which the bill had to run. He did not believe the reduction would ever come down to twenty per cent.; but if it should, the home valuation attached immediately, and converted that

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twenty into about thirty! The difference of the home and the foreign value would be about one-third in the northern ports, and one-half in the southern ports; consequently, the basis of calculation would be enlarged one-third, or one-half; but the difference, in fact, would be still greater. It is openly, publicly, repeatedly, and ostentatiously proclaimed on this floor, by the friends of the bill, that twenty per cent. upon the home valuation is more than thirty per cent. on the value! Assume it at thirty, and what will be the result? On one hundred millions of importations, the Government will receive thirty millions of revenue instead of twenty; on every hundred dollars' worth of goods, the consumer will pay thirty dollars tax instead of twenty! Both as a reduction of revenue to the Government and as a reduction of tax to the consumer, the valuation contradicts the ultimate point and main object of the bill, and renders it wholly deceptive and illusory.

Mr. B. objected to the home valuation, because it would be injurious, and almost fatal to the southern ports. He confined his remarks to New Orleans. The standard of valuation would be fifteen or twenty per cent. higher in New Orleans than in New York, and other northern ports. All importers will go to the northeastern cities, to evade high duties at New Orleans; and that great emporium of the West will be doomed to sink into a mere exporting city, while all the money which it pays for exports must be carried off and expended elsewhere for imports. Without an import trade no city can flourish, or even furnish a good market for exports. It will be drained of its effective cash, and deprived of its legitimate gains, and must languish far in the rear of what it would be if enriched with the profits of an import trade. As an exporter, it will buy; as an importer, it will sell. All buying and no selling must impoverish cities as well as individuals. New Orleans is now a great exporting city; she exports more domestic productions than any city in the Union; her imports have been increasing for some years; and, with fair play, would soon become next to New York, and furnish the whole valley of the Mississippi with its immense supplies of foreign goods; but, under the influence of a home valuation, it must lose a greater part of the import trade which it now possesses. In that loss its wealth must decline; its capacity to purchase produce for exportation must decline; and as the western produce must go there at all events, every western farmer will suffer a decline in the value of his own productions in proportion to the decline of the ability of New Orleans to purchase it. It was as a western citizen that he pleaded the cause of New Orleans, and objected to this measure of home valuation, which was to have the most baleful effects upon her prosperity.

Mr. B. further objected to the home valuation on account of the great additional expense it would create; the amount of patronage it

would confer; the rivalry it would beget between importing cities; and the injury it would occasion to merchants from the detention and handling of their goods; and concluded with saying, that the home valuation was the most obnoxious feature ever introduced into the tariff acts; that it was itself equivalent to a separate tariff of ten per cent.; that it had always been resisted, and successfully resisted, by the anti-tariff interest in the highest and most palmy days of the American system, and ought not now to be introduced when that system is admitted to be nodding to its fall; when its death is actually fixed for the 30th day of June, 1842, and when the restoration of harmonious feelings is proclaimed to be the whole object of this bill.

Mr. CALHOUN remarked, that the question being now about to be put on the amendment offered by the Senator from Kentucky, it became necessary for him to determine whether he should vote for or against it. He must be permitted again to express his regret that the Senator had thought proper to move it. His objection still remained strong against it; but as it seemed to be admitted, on all hands, that the fate of the bill depended on the fate of the amendment, feeling as he did a solicitude to see the question terminated, he had made up his mind, not, however, without much hesitation, not to interpose his vote against the adoption of the amendment; but, in voting for it, he wished it to be distinctly understood, he did it upon two conditions: first, that no valuation would be adopted that should come in conflict with the provision in the constitution which declares that duties, excises, and imposts shall be uniform; and in the next place, that none would be adopted which would make the duties themselves a part of the element of a home valuation. He felt himself justified in concluding that none such would be adopted; as it had been declared by the supporters of the amendment that no such regulation was contemplated; and, in fact, he could not imagine that any such could be contemplated, whatever interpretation might be attempted hereafter to be given to the expression of the home market. The first could scarcely be contemplated, as it would be in violation of the constitution itself; nor the latter, as it would, by necessary consequences, restore the very duties which it was the object of this bill to reduce, and would involve the glaring absurdity of imposing duties on duties, taxes on taxes. He wished the reporters for the public press to notice particularly what he said, as he intended his declaration to be part of the proceedings.

Believing, then, for the reason which he had stated, that it was not contemplated that any regulation of the home valuation should come in conflict with the provision of the constitution which he had cited, nor involve the absurdity of laying taxes upon taxes, he had made up his mind to vote in favor of the amendment.

Mr. SMITH said, any declaration of the views

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and motives under which any individual Senator might now vote could have no influence in 1842; they would be forgotten long before that time had arrived. The law must rest upon the interpretation of its words alone.

Mr. CALHOUN said he could not help that; he should endeavor to do his duty.

Mr. CLAYTON said there was certainly no ambiguity whatever in the phraseology of the amendment. In advocating it, he had desired to deceive no man; he sincerely hoped no one would suffer himself to be deceived by it.

The amendment of Mr. CLAY, fixing the principle of home valuation as a part of the bill, was then adopted by the following vote:

YEAS.—Messrs. Bell, Black, Bibb, Calhoun, Chambers, Clay, Clayton, Ewing, Foot, Frelinghuysen, Hill, Holmes, Johnston, King, Knight, Miller, Moore, Naudain, Poindexter, Prentiss, Rives, Robbins, Sprague, Tomlinson, Tyler, Wilkins—26.

NAYS.—Messrs. Benton, Buckner, Dallas, Dickerson, Dudley, Forsyth, Grundy, Kane, Robinson, Seymour, Silsbee, Smith, Waggaman, Webster, White, Wright—16.

SATURDAY, February 23.

The Tariff—Reduction of Duties—Compromise Bill.

The Senate resumed the consideration of the bill to modify the tariff laws; the question being on the motion of Mr. SMITH, to change the second section so as to permit the duties on plains, kerseys, and Kendal cottons, costing under thirty-five cents per square yard, to be imported at five per cent., as fixed by the act of 1832, instead of increasing the duties on those manufactures to fifty per cent., as was proposed by the bill.

Mr. WRIGHT supported the amendment. The great and leading objects for which this measure had been supported was to diminish the burdens of the South, and reduce the revenue. How either of these was to be accomplished by increasing the duty upon an article of great importance to that section from five to fifty per cent., which would add at least half a million to the revenue, he had not been able to perceive. On the other hand, it appeared to be precisely contrary to the avowed object of the friends of the bill, of whom he professed to be one. When the duty on these woollens had been reduced, the last session, to five per cent., as an act of conciliation to the South, the whole duty was taken from the wool, which entered into that description of manufacture, by way of counterpoise. To raise this duty to fifty per cent., without reinstating the corresponding duty on the raw material, he regarded as altogether impolitic.

Mr. FOOR said, this was an important feature of the bill, in which his constituents had a great interest. Gentlemen from the South had agreed to it; and they were abundantly capable of guarding their own interests.

Mr. CLAY said the whole bill was based upon

the principle of compromise. The provision proposed to be struck out was an essential part of this compromise, which, if struck out, would destroy the effect of the whole.

Mr. FORSYTH was sorry to hear from the Senator from Kentucky (Mr. CLAY) that he regarded this increase of the burdens of the South as an essential feature of this scheme of compromise. The Senate, in adopting the principle of home valuation, had changed the original plan, in his opinion, much for the worse; he now hoped they would change this part of the bill for the better. He regarded it as highly important to the whole South, with the exception of a small part of South Carolina.

Mr. BUCKNER advocated the interests of the West, which he said had been entirely overlooked in this compromise between the North and South. After explaining those interests at large, Mr. B. declared his intention of supporting the amendment.

Mr. BELL opposed the amendment. The passage of the bill depended upon it. If it was adopted, he should feel compelled to vote against the bill. As to the interests of the West, he believed the lead and iron were more highly protected, at least until 1841, than woollens. As to what would take place hereafter, no one could now foresee. No pledge could now be given to bind the future legislation of Congress. It was altogether futile to consider any measure in that light. We must presume that future legislation will be what it ought to be, in view of the great interests of the country.

Mr. WRIGHT had heard nothing in support of this provision of the bill, which proposed to increase the duties from five to fifty per cent., which had convinced him that it was conciliatory to the South, or effectual as a means of reducing the revenue. Upon the principles on which the bill had been placed, it certainly would be improved by striking out this provision.

Mr. CHAMBERS said it was impossible for him to vote for the bill, as a measure originating in the Senate, while it contained this provision for increasing the duties. By the constitution, the Senate could originate no such measure. If this feature were struck out, he should most cheerfully support the bill.

Mr. BENTON requested that Mr. CALHOUN, who had temporarily left his seat, might be sent for.

Mr. MOORE inquired if the gentleman wished to impeach Mr. CALHOUN?

Mr. BENTON did not. He only wanted the benefit of his testimony.

Mr. CALHOUN having taken his seat,

Mr. BENTON stated, that some years past he had introduced a bill which provided for a reduction of duties to a large extent, but increased the rate of duty upon some particular articles. It had then been decided by the presiding officer of the Senate, that, being a bill to raise revenue, it could not constitutionally originate in the Senate. He asked for the

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benefit of the testimony of the gentleman who then presided over the deliberations of the Senate, to bear him out in the correctness of his statement.

Mr. CALHOUN said, the constitution unquestionably provided that all bills for raising revenue shall originate in the House of Representatives. Whether the constitutional question was decided in the case referred to, or the bill went off upon a question of order, he did not distinctly recollect, though other Senators might. His impression was, that no decision was made on the constitutional question.

Mr. FOOR recollected the case, and was confident that only a question of order was raised, and the constitutional question was not decided by the Chair.

Mr. BENTON then explained the provisions of the bill to which he referred, and compared them with the present. He regarded them as standing on the same ground. The question of order, if it was to be so called, was decided against that bill, upon the constitutional objection that it was not competent to introduce such a measure into the Senate.

Mr. FOOR said the bill referred to proposed the commencement of a revenue system, which had not before existed, and clearly came within the constitutional objection. This bill is not intended to raise, but to reduce the revenue. The objection did not apply to this measure.

Mr. SMITH said, gentlemen seemed inclined to make the constitution support whatever might agree with their fancies.

Mr. DICKERSON said, whether the rate of duty was raised or lowered, the law was equally one for raising revenue within the constitution. The distinction was an absurdity.

Mr. CHAMBERS regarded the constitutional objection as insurmountable. With great regret he should be compelled to vote against the bill if this provision remained in it. The bill should have come from the House of Representatives.

Mr. FORSYTH had stated this objection to the introduction of the bill; but, having been overruled, and the bill having originated in the Senate notwithstanding the constitution, he could perceive no prohibition against its passage.

Mr. CHAMBERS had supposed the objection against the introduction of the bill to have been waived, for the purpose of discussing its provisions. He regarded the present as the proper time for taking the objection.

Mr. SILSBEE could not vote for the bill in the face of the constitution, which expressly prohibited its originating in the Senate.

Mr. BUCKNER could not agree with the Senator from Georgia, (Mr. FORSYTH,) that the introduction of the bill had done away the objection. For this reason, if no other, he should vote against it.

Mr. SMITH could not see how the constitutional question could be settled. If the Senate passed the bill, and the House concurred in it,

there was an end of the objection. The origin of the bill could never be inquired into hereafter.

Mr. FREELINGHUYSEN regarded the constitutional difficulty as altogether insuperable. Having taken a solemn oath to support the constitution, he could not, however agreeable to his wishes, give his assent to a measure originating in the Senate, in violation of its express provisions.

Mr. BRIS considered it clear that a bill to reduce the revenue might originate in the Senate. Such a bill could not be called a bill to raise revenue; and this distinction had already been sanctioned by the Senate.

Mr. DICKERSON said a single word would destroy that distinction in the present case. If this bill passed, under what law would revenue be raised after 1842, excepting the present, which provided for duties of twenty per cent. after that period?

Mr. WILKINS moved an adjournment, which was lost—yeas 14, nays 81.

Mr. SMITH modified his proposition to amend, by moving to strike out the whole of the second section of the bill, which reads as follows:

SEC. 2. *And be it further enacted*, That so much of the second section of the act of the 14th of July aforesaid, as fixes the rate of duty on all milled and fulled cloth, known by the name of plains, kerseys, or Kendal cottons, of which wool is the only material, the value whereof does not exceed thirty-five cents a square yard, at five per cent. ad valorem, shall be, and the same is, hereby repealed. And the said articles shall be subject to the same duty of fifty per cent. as is provided by the said second section for other manufactures of wool; which duty shall be liable to the same deductions as are prescribed by the first section of this act.

Mr. BENTON was opposed to this section, and, therefore, in favor of striking it out. He said it was contrary to the whole tenor and policy of the bill, and presented the strange contradiction of multiplying duties tenfold, upon an article of prime necessity, used exclusively by the laboring part of the community, while reducing duties, or abolishing them *in toto*, upon every article used by the rich and luxurious. Silks were to be free; cambrics and fine linens were to be free; muslins, and cassimeres, and broadcloths were to be reduced; but the coarse woollens, worn by the laborers of every color and every occupation, of every sex and of every age, bond or free—these coarse woollens, necessary to shelter them from cold and damp, are to be put up tenfold in point of tax, and the cost of procuring them doubled to the wearer. He showed the annual amount of the tax to be imposed by this section. It applied to the woollen goods costing less than thirty-five cents the square yard; the annual importation of that description of goods was shown in the custom-house returns to be one million and fifty thousand dollars' worth. The tax on that amount would be fifty thousand dollars by the bill of 1832; it will be five hundred thousand

dollars if this section is retained; with the chance of coming down, by small periodical reductions, to two hundred thousand dollars in 1842. Thus, a tax on a necessary of life—on an article exclusively used by the poor and the laborer—is to be raised tenfold off hand, for the chance of coming down to fourfold in nine years. But it never will come down to fourfold. Whether the act goes into full effect, and works through its destined term of nine years, and attains its promised glory in 1842; or whether it is broken up before the period of gestation is half out, the result, in either event, will be the same to these coarse woollens. If the act is broken, the duties, in their descending course, will be stopped at thirty-five or thirty-eight per cent.; if the act is carried out, then the home valuation, provided for in this bill, will attach upon these woollens as the standard of their value. The American value, and not the foreign cost, will be the basis of computation for the twenty per cent. The difference, when all is fair, is about thirty-five per cent. in the value; so that an importation of coarse woollens, costing one million in Europe, and now to pay five per cent. on that cost, will be valued, if all is fair, at one million three hundred and fifty thousand dollars; and the twenty per cent. will be calculated on that sum, and will give two hundred and seventy thousand dollars, instead of two hundred thousand dollars, for the quantum of the tax. It will be near sixfold, instead of fourfold, and that if all is fair; but if there are gross errors or gross frauds in the valuation, as every human being knows there must be, the real tax may be far above sixfold. On this very floor, and in this very debate, we hear it computed, by way of recommending this bill to the manufacturers, that the twenty per cent. on the statute book will exceed thirty in the custom-house.

Mr. B. animadverted on the reason which was alleged for this extraordinary augmentation of duties in a bill which was to reduce duties. The reason was candidly expressed on this floor. There were a few small manufactories of these woollens in Connecticut; and unless these manufactories be protected by an increase of duties, certain members avow their determination to vote against the whole bill! This is the secret—no! not a secret, for it is proclaimed. Two or three little factories in Connecticut must be protected; and that by imposing an annual tax upon the wearers of these coarse woollens of four or five times the value of the fee-simple estate of the factories. Better far, as a point of economy and justice, to purchase them and burn them. The whole American system is to be given up in the year 1842; and why impose an annual tax of near five hundred thousand dollars, upon the laboring community, to prolong, for a few years, a few small branches of that system, when the whole bill has the axe to the root, and nods to its fall? But, (said Mr. B.,) these manufactories of coarse woollens, to be protected by this bill, are not

even American manufactories; they are rather Asiatic establishments in America; for they get their wool from Asia, and not from America. The importation of this wool is one million two hundred and fifty thousand pounds weight; it comes chiefly from Smyrna, and costs less than eight cents a pound. It was made free of duty at the last session of Congress, as an equivalent to these very manufactories for the reduction of the duty on coarse woollens to five per cent. The two measures went together, and were, each, a consideration for the other. Before that time, and by the act of 1828, this coarse wool was heavily dutied for the benefit of the home wool growers. It was subjected to a double duty, one of four cents on the pound, and the other of fifty per cent. on the value. As a measure of compromise, this double duty was abolished at the last session. The wool for these factories was admitted duty free, and, as an equivalent to the community, the woollens made out of the corresponding kind of wool were admitted at a nominal duty. It was a bargain, entered into in open Congress, and sealed with all the forms of law. Now, in six months after the bargain was made, it is to be broken. The manufacturers are to have the duty on woollens run up to fifty per cent. for protection, and are still to receive the foreign wool free of duty. In plain English, they are to retain the pay which was given them for reducing the duties on these coarse woollens, and they are to have the duties restored.

Mr. B. considered this increase of duties on this particular article as the most offensive part of the bill. It not only restored the old duty but made it higher than it ever was before, higher than it was in the acts of 1824-'28; higher than it ever had been on the American statute book; and this purely and simply for protection, as it is avowed and proclaimed on this floor.

Mr. WEBSTER said, the constitutional question must be regarded as important; but it was one which could not be settled by the Senate. It was purely a question of privilege, and the decision of it belonged alone to the House. The Senate, by the constitution, could not originate bills for raising revenue. It was of no consequence whether the rate of duty were increased or decreased; if it was a money bill, it belonged to the House to originate it. In the House there was a Committee of Ways and Means organized expressly for such objects. There was no such committee of the Senate. The constitutional provision was taken from the practice of the British Parliament, whose usages were well known to the framers of the constitution, with the modification that the Senate might alter and amend money bills, which was denied by the House of Commons to that of Lords. This subject belonged exclusively to the House of Representatives. The attempt to evade the question by contending that the present bill was intended for protection and not revenue, afforded no relief, for it was protection by

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means of revenue. It was not the less a money bill from its object being protection. After 1842 this bill would raise the revenue, or it would not be raised by existing laws. He was altogether opposed to the provisions of this bill; but this objection was one which it belonged to the House to make.

Mr. CLAY said, the question had been decided again and again that the Senate might originate a bill of such a character. The main object in the bill was not revenue, but protection. He hoped on this occasion the Senate would exercise the power it had heretofore done in favor of this bill, which was regarded on all sides as a measure of conciliation and compromise. He regretted that any objection should have arisen from any quarter to the beneficent action of the Senate upon this distracting subject. He flattered himself that the passage of this bill would again bring the citizens of the various sections of the country together like a band of brothers. Would the Senator from Massachusetts (Mr. WEBSTER) send his bill forth alone without this measure of conciliation? He hoped not. He feared such a course would not calm the agitations which now convulse the nation and threaten the integrity of the Union.

Mr. WEBSTER said, the Senator from Kentucky (Mr. CLAY) had spoken of the bill which had been reported from the Judiciary Committee as his bill. It was no more his bill than it was that gentleman's. The Senator from Kentucky had expressed himself to be as much in favor of that bill as he had himself. The only difference between them in this particular was, that he happened to have been a member of the committee from which the bill had been reported. He had no objection to conciliation, which had been so much spoken of. He objected to this measure, not because it was a measure of conciliation, but because it was one the country would never consent to see carried out. Upon proper principles, he would go as far in favor of conciliation as any man. The Senator from Kentucky (Mr. CLAY) says the object of the bill is protection, and therefore it is not a bill to raise revenue. Can such considerations be gone into in determining the constitutionality of a measure? This is the very doctrine of the South Carolina ordinance. The bill before us illustrates its absurdity. The gentleman from Kentucky supports it from one motive; others, from another motive. One, because it secures protection; another, because it destroys protection. One half of its friends vote for it with the sole view to protection; the other half because it only raises revenue. It is impossible to settle grave constitutional questions upon principles which can never be known but to the Searcher of hearts.

The motion to strike out the second section was negatived by

YEAS.—Messrs. Benton, Buckner, Dallas, Dudley, Forsyth, Grundy, Kane, King, Robinson, Silsbee, Smith, Webster, White, Wright—14.

NAYS.—Messrs. Bell, Bibb, Black, Calhoun, Clay,

Clayton, Dickerson, Ewing, Foot, Frelinghuysen, Hendricks, Holmes, Johnston, Knight, Mangum, Miller, Moore, Naudain, Poindexter, Prentiss, Rives, Robbins, Seymour, Sprague, Tipton, Tomlinson, Troup, Tyler, Wilkins—29.

Mr. FORSYTH moved to strike out the third and sixth sections of the bill, which attempt to bind all future Congresses until the year 1842, was negatived, as follows:

YEAS.—Messrs. Benton, Buckner, Dallas, Dickerson, Dudley, Forsyth, Kane, Knight, Robinson, Seymour, Silsbee, Smith, Webster—18.

NAYS.—Messrs. Bell, Bibb, Black, Calhoun, Clay, Clayton, Ewing, Foot, Grundy, Holmes, Johnston, King, Mangum, Miller, Moore, Naudain, Poindexter, Prentiss, Rives, Robbins, Sprague, Tipton, Tomlinson, Troup, Tyler, White, Wilkins, Wright—28.

Reduction of Drawback in proportion to the reduction of Duty.

Mr. BENTON moved to amend the bill by adding a new section, the object of which was to make a reduction of the drawbacks allowed on the exportation of articles manufactured in the United States from foreign materials subject to duty, in the same proportion as the reduction made in the duties by this bill.

Mr. B. said that this motion did not extend to the general system of drawbacks, but only to those special cases in which the exporter was authorized to draw from the treasury the amount of money which he had paid into it on the importation of the materials which he had manufactured. The amount of drawback to be allowed in every case had been adjusted to the amount of duty paid; and as all these duties were to be periodically reduced by the bill, it would follow, as a natural consequence, that the drawback should undergo equal reductions at the same time. Mr. B. would illustrate his motion by stating a single case—the case of refined sugar. The drawback payable on this sugar was five cents a pound. These five cents rested upon a duty of three cents, now payable on the importation of foreign brown sugar. It was ascertained that it required nearly two pounds of brown sugar to make a pound of refined sugar, and five cents was held to be the amount of duty paid on the quantity of brown sugar which made the pound of refined sugar. It was simply a reimbursement of what he had paid. By this bill the duty of foreign brown sugar will be reduced immediately to two and a half cents a pound, and afterwards will be periodically reduced until the year 1842, when it will be but six-tenths of a cent—very little more than one-sixth of the duty when five cents the pound were allowed for a drawback. Now, if the drawback is not reduced in proportion to the reduction of the duty on the raw sugar, two very injurious consequences will result to the public: first, that a large sum of money will be annually taken out of the treasury in gratuitous bounties to sugar refiners; and next, that the consumers of refined sugar will have to

pay more for American refined sugar than foreigners will; for the refiners, getting a bounty of five cents a pound on all that is exported, will export all, unless the American consumer will pay the bounty also. Mr. B. could not undertake to say how much money would be drawn from the treasury, as a mere bounty, if this amendment did not prevail. It must, however, be great. The drawback was now frequently a hundred thousand dollars a year, and great frauds were committed to obtain it. Frauds to the amount of forty thousand dollars a year had been detected, and this while the inducement was small and inconsiderable; but, as fast as that inducement swells from year to year, the temptation to commit frauds must increase; and the amount drawn by fraud, added to that drawn by the letter of the law, must be enormous. Mr. B. did not think it necessary to illustrate his motion by further examples, but said there were other cases which would be as strong as that of refined sugar; and justice to the public required all to be checked at once, by adopting the amendment he had offered.

After a few words from Mr. CALHOUN, Mr. SMITH, Mr. POINDEXTER, Mr. FOOT, and Mr. MILLER, the question was decided by

YEAS.—Messrs. Benton, Buckner, Calhoun, Dallas, Dickerson, Dudley, Forsyth, Johnston, Kane, King, Rives, Robinson, Seymour, Tomlinson, Webster, White, Wilkins, Wright—18.

NAYS.—Messrs. Bell, Bibb, Black, Clay, Clayton, Ewing, Foot, Grundy, Hendricks, Holmes, Knight, Mangum, Miller, Moore, Naudain, Poindexter, Prentiss, Robbins, Silsbee, Smith, Sprague, Tipton, Troup, Tyler—24.

The question was then put on the third reading of the bill, and carried, without a division being called.

MONDAY, February 25.

The Tariff—Reduction of Duties—Compromise Bill.

Mr. CLAY rose and stated, that inasmuch as it was represented that the House of Representatives had just now passed a bill, similar, if not identical, in its provisions to the one before the Senate, and it was believed it would, tomorrow, be presented to the Senate to sanction, it would obviate the reasons for a longer continuance of a laborious day's session of this body, and also supersede the objections of some Senators, who believed the Senate was not the proper place for the origin of this bill. He, therefore, moved that the Senate adjourn.

The motion was carried, and the Senate adjourned.

TUESDAY, February 26.

The Tariff.

The bill from the House of Representatives to modify the existing tariff, (Mr. CLAY's bill, which was introduced yesterday in the House,

and passed to-day,) was brought into the Senate, by the Clerk of the House of Representatives, with a message from the House, requesting the concurrence of the Senate thereto; and the bill was read, and ordered to a second reading.*

Mr. CLAY then observed, that he had no disposition, without the assent of the Senate, to hasten the bill. He left it to them to say whether it should be read a second time that evening. There was no necessity, he presumed, to refer it to a committee, as the same bill, in terms, had been before a select one, and sufficiently discussed; and, indeed, the rules of the Senate did not require it. He would be satisfied with acting on it to-morrow, or the next day.

Objection being made to its second reading to-day,

The bill introduced by Mr. CLAY, to modify the tariff, which was before the Senate when it adjourned yesterday, then came up as the unfinished business, and was ordered to lie on the table.

WEDNESDAY, February 27.

The Tariff.

The bill from the House of Representatives, to modify the act of the 14th of July, and other acts imposing duties on imports, was taken up, in Committee of the Whole.

Mr. CLAY moved that the bill be reported to the Senate.

Mr. GRUNDY inquired if the Senator from Kentucky had examined the bill to ascertain if it was the same as the bill which had been before the Senate.

Mr. CLAY replied in the affirmative; and said, that he believed it corresponded word for word with the other bill.

The bill was reported without amendment, and ordered to be read a third time.

American State Papers.

Mr. CHAMBERS moved to postpone the preceding orders, for the purpose of taking up the joint resolution extending the subscription made to the compilation of documents, now in progress by Gales and Seaton, to the continuation of the same; which was agreed to.

The resolution was then read a second time, and considered as in Committee of the Whole.

Mr. HILL asked what was the cost of the documents already printed.

Mr. ROBBINS said he was not prepared to answer.

The resolution was then reported without amendment.

* This bill from the House was the compromise bill of Mr. Clay in the Senate, which, meeting a fatal objection to its origination in the Senate, on account of the clause raising revenue, was transferred to the House, to be thence sent to the Senate. Mr. Letcher, of Kentucky, proposed it as an amendment to the tariff bill then depending in the House, reported by Mr. Verplanck of New York; and being adopted, became the bill of the House, and as such went back to the Senate for concurrence.

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The Tariff—Reduction of Duties—Nullification.—Compromise Bill.

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The question being on the third reading of the resolution, Mr. HILL asked for the yeas and nays, which were ordered.

YEAS.—Messrs. Bell, Black, Chambers, Clay, Clayton, Ewing, Foot, Frelinghuysen, Hendricks, Holmes, Kane, Knight, Naudain, Poindexter, Robbins, Robinson, Seymour, Silsbee, Tipton, Tomlinson, Waggaman, Webster—22.

NAYS.—Messrs. Benton, Buckner, Dallas, Dickerson, Grundy, Hill, King, Moore, White—9.

So the resolution was ordered to be engrossed and read a third time.

FRIDAY, March 1.

The Tariff—Reduction of Duties—Nullification—Compromise Bill.

The bill for modifying the duties on imports, as passed by the House of Representatives, (in effect, Mr. CLAY's bill,) being read the third time, and put on its passage—

Mr. ROBBINS said he had returned to his first impressions, which were unfavorable to this project; he doubted his own, because some friends, to whom he had been in the habit of deferring much, had different impressions. But reflection has satisfied me (said Mr. R.) that my own impressions were right; and though the amendments to the bill have weakened, they have not removed them. I cannot dissemble my dislike of the bill, notwithstanding the temporary political good effect it may, by some, be expected to produce; nor can I refrain from stating the grounds of that dislike, or at least the more prominent grounds.

The bill carries with it the idea that the protective policy is an evil in itself; an evil to be deprecated, and not to be tolerated for a moment, but to prevent a greater evil—namely, the evil of a sudden overthrow of the great establishments dependent upon it; and to be tolerated only for a few short years, to give an opportunity to those establishments to wind up their affairs, and enable them, so far as that time will enable them, to prevent the consummation of their total ruin. The bill thus considers this protective policy as a great state criminal, condemned to die, but whose sentence is respited for a few days, to give him time to arrange his affairs, repent him of his evil deeds, and prepare for death; but whose doom is fixed, and irrevocably die he must. Such an idea going out to the country, I think, must be pernicious in its effects, especially as it goes out from the professed friends, or some of them, of the policy, with its great champion at their head. It must repress the spirit of adventure; it must depreciate the value of those establishments; it must arrest the progress of the business at the point where it now is; no more capital will be invested in it; and the capital already invested will be withdrawn, as far and as fast as it can be. The tide will have reached its high-water mark; it will now turn back and fall to low ebb, perhaps never to recommence its flood. These great establishments,

so widely spread over the country, with all the industry dependent upon them, will be kept in a feverish lingering state of existence, suspended between hope and fear; with much to alarm their fears, with little to animate their hopes. It cannot be but this languishing state must ensue; for we all know how feeble is the hand, when not seconded and invigorated by the impulses of the heart.

But I have risen, mainly, to contribute, so far as my poor efforts could contribute, to correct the impression given by the bill to the prejudice of this policy. The protective policy an evil in itself! I would be glad to know if any gentleman here will tell me that the immense resources of this great country are never to be developed; and, if to be developed, if they can be, without the aid of Government? And then, if this aid can be afforded by any means other than the protective policy? The boundless resources in our agriculture, with its infinite capabilities; our resources in our mineral wealth; our resources in artificial power by water and by steam; our boundless resources in the manual labor of our many and rapidly increasing millions of people; the resources in the great capital of this country; in the skill acquired and to be acquired; but, above all, in the enterprise and inventive genius of the most enterprising and inventive people that perhaps ever existed on earth—are these resources never to be developed? However we may differ in opinion as to the best means of their development, as to our interest in the object itself we cannot differ; that must be the same everywhere—in the South and in the North, in the West and in the East. All parts abound with these resources; all are interested in their development. The country is unfaithful to herself, unfaithful to her people, if she do not adopt the means necessary to their development. I ask, again, can this development be effected without the aid of Government? Will any one tell me it can be effected by a system of free trade?—a trade free on one side, and restricted on the other?—free to us by all the world, and restricted by all the world against us? And this is all the free trade we can have. Free trade to develop our resources! Were it not for the respect I bear to some respectable patrons of that opinion, I would say, that such a thesis is only fit to be maintained by school-boys, as an exercise of the schools. How it can be attempted to be maintained by men, enlightened by experience, acquainted with the state of the world, and capable of reflection, is to me incomprehensible. Let them tell me, if they can, how this free trade system can be an efficient instrument of this development? How it touches, or can be ever made to touch, a hundredth part of these resources? They might as well undertake to tell me how a settler in the woods might fell the forest around him with a penknife, and let in the sun to develop the resources of the fertile earth.

I think a little reflection will satisfy any

one that our great resources must forever remain dormant if they are to wait their development from the operations of free trade. But by the aid of Government they may be rapidly and fully developed; and by means so obvious, so direct, and so adequate, that nothing appears to me so unaccountable as the struggle that is made to prevent their adoption; or to get rid of them, so far as they have been adopted. It is only to give to the industry, the capital, and the enterprise of the country, the market of the country, and the work is accomplished, or in a train of rapid accomplishment. The result is necessary; if we look into the cause, we see it must be necessary; we see there a force that must have this effect. A market is the mighty power that is to perform this mighty work; and there are no limits to this power when created by this policy. The market brings forth your resources, and your resources augment the market; the action and the reaction are reciprocal, and the reciprocal effect is as unlimited as your resources themselves. The stream does not flow with more certainty from its fountain, and roll on to the ocean, than the development of all our resources would flow, from the operation of the simple expedient of giving to the industry of the country the market of the country.

Is it wise, then, to tell this country, as this bill seems to tell them, that this policy, so benevolent in its effects, so almighty, I might almost say, in its benevolent effects, is an evil in itself; and to be got rid of as soon as it can be under existing circumstances? I think not.

Again: this bill, if it is to be the permanent system of the country, (and there is nothing in it that implies the contrary; that is what it professes to be on its face,) it does propose that the country shall take security against the country—not to pursue any further, after the 30th of June, 1842, the great work of developing her own resources; to which work a system of protection is indispensable. For I have not heard one gentleman, either friend or foe to it, say that this bill would afford a system of protection; nor is it possible that any one should say this, and speak from knowledge of the subject.

But it has only been said, in its favor, first, that it preserves the principle of protection. Now, what signifies it to preserve the principle of protection, if protection itself is not preserved? If the principle is so limited and restricted in its exercise, as it is in this bill, that it cannot give protection, it might as well be out of the bill as in it. It is nugatory as to the great object. And then, it is said that the bill, as it is, will protect some branches of industry. True, it may some—a few. I think it probable that some few fragments of the system will remain, and survive the shock of 1842; but the system itself will be gone; and with it will be gone the necessary means to the great end of developing the resources of the country, which,

as I have so often said, can only be found in a system, a complete system, of protection. They never can be found in a few fragments of a system. Then, in 1842, the barriers are to be broken down, and our markets are to be thrown open to the world, while the markets of the world are to remain closed against us, as they now are. Then will commence the glorious era of free trade, and its reign, by the bill, thereafter is to be everlasting. The 30th of June, 1842, will be to England a day of jubilee, such as she has rarely witnessed; the prospect of that day will infuse a lively joy into every British bosom; for that day is to let in and give to her industry, while it takes from our own, the supply of the wants of eighteen millions of people, and on her own terms.

"What shame, what loss is this to Greece! what joy To Troy's proud monarch, and the friends of Troy!"

If we were now at war with Great Britain, and if by the fortune of that war this country was subdued, and at the mercy of Great Britain; (I ask pardon of my country for supposing an event of the contest which I know would be impossible;) in that event, the worst we should have to apprehend from our conquerors would be, that very condition which we are going to impose upon ourselves. The greatest calamity that foreign war and foreign subjugation could inflict, is going to be inflicted on the country by the country herself. What, then, Great Britain, with her thousand ships, with her Wellington, and her Wellington armies, and by a ten years' war, could not acquire to herself, she is going to secure to herself by one single act of our own folly. Her young and gigantic rival, and the only rival she now dreads, whose eagle she has seen taking his flights with many a jealous pang, that young and gigantic rival is going to relieve her from all her inquietudes, by becoming her tributary. We may, then, bid adieu to all those visions of glory in which we have so fondly indulged, as connected with our future destinies, and take an humble rank with the tributary nations of the earth; tributary to a nation who has the wisdom to adhere to a policy which we have the folly to reject, and shall have renounced forever.

I know it is said this bill is not to be what it professes to be—a permanent system for this country. But, if this system is to be adopted, and then to be destroyed, who are to destroy it? We, the friends of the policy, are to destroy it—we are to wage the war—we are to make the attack—we are to obtain the conquest over it. Now, I had rather be in a condition to have to defend our own possessions, than to have to attack and conquer those of the enemy. I do not like the idea of first giving up our possessions, and then of going to war in order to recover them back. The event of that war depends upon the uncertain contingencies of the uncertain future; and I see nothing in the hopes resting on those contingencies to countervail the force of my contrary fears, and to quiet my mind on the subject.

It is said, too, that the treasury is in danger of a plethora, from a surplus, or accumulating surpluses, of revenue; that this danger must be obviated by graduating our income to the wants of the Government. Wants of the Government! These must depend upon the objects of expenditure by the Government; and these must be determined by the wisdom and discretion of Congress, hereafter, as well as now; they cannot be prescribed and limited by us. If an overflowing treasury be an evil, it will be time enough to apply a remedy when the evil exists. At present it does not exist, nor can we know with certainty that it will exist hereafter. But is an overflowing treasury an evil? and such an evil, that all the great interests of the country, involved in the development of her great resources, must be sacrificed to its prevention? An evil! Who feels this surplus of revenue, if there should be a surplus, as a burden? From whom does it abstract one necessary of life, one comfort, one luxury? Not an individual in this country. The revenues of this country are no more felt as a burden upon them, by the people of this country, than the dews of heaven are felt as a burden upon them; they are alike unconscious of both; and no one would think of the former as a burden, but for the metaphysics employed to prove it to be a burden. What sort of burden is that which is felt only by the aid of metaphysics, and then only by the aid of imagination?

I hope we shall consider, and, if we do not, that a future Congress will consider, the great and glorious objects yet to be accomplished by this Government, and to which these surpluses will be necessary—objects of national improvement, demanded by the geographical situation of the country, and which constitute, in fact, one of her great resources yet to be developed; and the establishments, too, necessary to develop the resources of the mind of the country—if she should deem it worthy of her ambition to aspire to the most glorious of all fame, the fame which mind confers by her immortal works. Believe me, the establishments necessary to this glorious end are yet to be created. Little views to little savings, very proper for petty corporations, are not the views proper to the statesman in the American Congress. These ought to be large and prospective, and to correspond to the grandeur of the trust committed to his charge; otherwise he runs the risk of dwarfing the country born of gigantic proportions to the littleness of his little views. The prospect of these surpluses, then, far from embarrassing, rejoices me; for I see in them the means to great and desirable ends, and without occasioning a particle of grievance or inconvenience to the people.

I know it is said, too, that the dissolution of the Union is threatened, and that this bill is necessary to hold the States together. Yet it is said, in the same breath, that this bond is no bond, and is represented as frangible as the flax

scorched by the fire. The tendency to fly off from the Union, I should hope, was not very strong, if it could be overcome and constrained by so frail a ligature. But to be serious: this very argument is what alarms me most as to the stability and efficiency of this Union. Here, in this body, we have seen an inherent power claimed for the States unknown to the constitution, and incompatible with it, and to be despotic over this Union. We have seen a State arm herself with this power, and put herself in an attitude to exert it. That State hath neither disarmed herself nor renounced this power. Now we offer to her this bill to induce her, not to renounce this power, but to refrain from its exercise at present. Is not this a practical recognition of this fatal power? What is to hinder this State from resuming this attitude hereafter? What is to hinder any other from assuming the same attitude, by this power to wrest from the General Government any one of its powers, or, what amounts to the same thing, prevent its exercise? In that case, by this precedent, we are either to yield the disputed power, or to buy off the Union by a compromise. If this precedent is to govern hereafter, where is the security for the stability or efficiency of this Union? I cannot see.

This bill, however, I suppose, is to pass, notwithstanding all these considerations, and the many others that have been urged with so much more ability. If it does pass, it may smother the fire now raging in one place, but I fear it will preserve the embers that one day will consume the fabric of the Union.

[Mr. Calhoun, Mr. Frelinghuysen, Mr. Dallas, Mr. Ewing of Ohio, Mr. Mangum of North Carolina, Mr. John M. Clayton of Delaware, Mr. Webster, Mr. Silsbee of Massachusetts, Mr. Forsyth, Mr. Sprague, Mr. Holmes, Mr. Silas Wright, Mr. Bibb, and Mr. Clay, made brief expositions of their personal sentiments towards the bill, or of its practical working on certain points; after which the vote was taken, and the bill passed by the following vote:]

YEAS.—Messrs. Bell, Bibb, Black, Calhoun, Chambers, Clay, Clayton, Ewing, Foot, Forsyth, Frelinghuysen, Grundy, Hill, Holmes, Johnston, King, Mangum, Miller, Moore, Naudain, Poindexter, Rives, Robinson, Sprague, Tomlinson, Tyler, Waggaman, White, Wright—29.

NAYS.—Messrs. Benton, Buckner, Dallas, Dickerson, Dudley, Hendricks, Knight, Prentiss, Robbins, Ruggles, Seymour, Silsbee, Smith, Tipton, Webster, Wilkins—16.

Public Lands : Distribution of the proceeds of the Sales among the States.

[The Senate took up the amendment of the House of Representatives to the bill providing for the distribution of the proceeds of the public lands.]

Mr. CLAY said that, although the objects to which these proceeds were to be applied were

a favorite point with him, yet as he had found that he was differing on this topic with some of his friends, and as it had been suggested that there might be difficulty in another quarter if the words struck out by the House were retained, he would move to concur in the amendment.

Mr. ROBINSON expressed a hope that the question would not be pressed at this late hour, in so thin a Senate, when many were absent who are so much interested in the measure.

Mr. CLAY expressed his regret that, at this late period of the session, the Senator from Illinois should wish for delay, which might endanger the passage of the bill. It was not the fault of the members present that there are so many absentees.

He wished to take the question to-night, in order that the Executive might have time to act upon the bill.

Mr. CHAMBERS said he should vote against the amendment. He would rather vote against the bill than take it with the amendment.

The question was then taken on the motion to concur, and decided by

YEAS.—Messrs. Bell, Black, Buckner, Clay, Clayton, Dudley, Ewing, Foot, Hendricks, Holmes, King, Mangum, Moore, Naudain, Poindexter, Prentiss, Robbins, Seymour, Silsbee, Sprague, Tomlinson, Tyler, White—23.

NAYS.—Messrs. Bibb, Chambers, Grundy, Robinson, Tipton—5.

And at 11 o'clock the Senate adjourned.

SATURDAY, March 2.

Evening Session.

On motion of Mr. DUDLEY, the Senate then proceeded to the consideration of executive business.

When the doors were re-opened, Mr. CLAY was found speaking. He was engaged in expressing his approbation of the conduct of the President *pro tempore* of this body. The present, he said, had been a very arduous session. He should not have voted for the present presiding officer, had he been present when he was elected; nor did he mean to say what would be his vote, if the election were now to be made. But he gave with great pleasure his testimony in favor of the faithful, and able, and impartial manner in which that officer had performed his duty. He concluded with asking leave to present the following resolution:

Resolved, That the thanks of the Senate be presented to the Honorable HUGH L. WHITE, for the dignity, ability, and impartiality, with which he has discharged the duties of President *pro tempore* of the Senate.

The resolution was unanimously adopted.

About half-past four o'clock, A. M., a committee on the part of the Senate was appointed to join such committee as the House might appoint, to wait on the President, and inform him that the two Houses were ready to adjourn.

The House having appointed a committee, the joint committee waited on the President, and returned with an answer that he had no further communication to make; whereupon,

Mr. KING moved that the Senate adjourn.

Mr. WHITE (President *pro tempore*) then rose and addressed the Senate, as follows:

Before the presiding officer leaves the chair, he is desirous of saying a few words.

We met under circumstances calculated to induce us to believe that matters of high excitement would arise during our sojourn here. It was by the will of the majority of this body that I was placed in this chair, to preside over your deliberations. I looked upon the high honor thus conferred to be but temporary; for could I then have foreseen that I was to act in this capacity until now, most certainly my distrust of my experience would have induced me to shrink from undertaking the task. The duties of the Chair are at all times arduous, but the more particularly so when topics of high interest and importance are under discussion. My experience, however, has convinced me that even under these circumstances, the presiding officer may have a pleasant task to perform, when every member submits himself to be guided by the rules of this body, instead of having a law for himself.

I take pleasure in stating, that during the whole course of the session, no act has been done by any one member, and no single expression has reached my ear, calculated to give pain to the presiding officer. If, in the discharge of the duties confided to me, I have had the misfortune to injure or to wound the feelings of any individual, I trust he will do me the justice to believe that it has happened without any intention on my part. I have endeavored to act impartially towards every member of this body; and I would have them to bear in mind, that if, during the arduous duties I have had to perform, and amidst all the excitement that have existed, any thing like order has been preserved, it must be attributed more to the kindness and courtesy of Senators towards the presiding officer, than to the capacity which he was able to bring to the duties assigned him. It is not probable, in the course of human events, that we can all ever assemble in this chamber again. I shall, after putting the question, take a farewell of all who are here present, and I feel regret that I cannot exchange good wishes with those who are absent; hoping that it may be our good fortune all to meet again.

The President then put the question on adjournment, which was carried, *nomine dissonante*; and

The Senate, at five o'clock, A. M., adjourned *sine die*.

TWENTY-SECOND CONGRESS.—SECOND SESSION.

PROCEEDINGS AND DEBATES

IN

THE HOUSE OF REPRESENTATIVES.

MONDAY, December 3, 1882.

At 12 o'clock Mr. Speaker BREVENSON took the chair, and called the House to order.

The Clerk having called over the roll, one hundred and sixty-five members answered to their names; which being a quorum, a message was ordered to be sent to the Senate announcing that the House of Representatives was organized, and ready to proceed to business.

Death of Mr. Doddridge.

Mr. MERRICK rose and observed, that it was his melancholy duty to announce to the House the decease of his lamented colleague, the Honorable PHILIP DODDRIDGE, and to offer a resolution, assuring the friends of the deceased, and the country at large, of the sense entertained by this House of the loss it had sustained. In performing this duty, Mr. M. said, that were he to indulge the feeling he possessed of the merits of his departed friend, he should find himself speedily arrested. In intellectual power, that friend had been surpassed by few in this or any other country; in integrity of motive, he was excelled by none; and in simplicity of heart, by no man he had ever known. Mr. M. then offered the following resolution:

Resolved, unanimously, That the members of the House of Representatives, from a sincere desire of showing every mark of respect due to the memory of PHILIP DODDRIDGE, late a member thereof from the State of Virginia, will go in mourning by the usual mode of wearing crape round the left arm for one month.

The resolution was agreed to.

The House adjourned.

TUESDAY, December 4.

A message was announced from the President of the United States; and Mr. Donelson, his private secretary, delivered to the

Chair the message of the President to the two Houses of Congress at the opening of the session. (See Senate Proceedings.)

The message was read, referred to the committee of the Whole House on the state of the Union, and 10,000 copies ordered to be printed.

Veto of the Harbor Bill.

The following message was received from the President of the United States:

To the House of Representatives:

In addition to the general views I have heretofore expressed to Congress on the subject of internal improvement, it is my duty to advert to it again in stating my objections to the bill entitled "An act for the improvement of certain harbors, and the navigation of certain rivers," which was not received a sufficient time before the close of the last session to enable me to examine it before the adjournment.

Having maturely considered that bill within the time allowed me by the constitution, and being convinced that some of its provisions conflict with the rule adopted for my guide on this subject of legislation, I have been compelled to withhold from it my signature; and it has, therefore, failed to become a law.

To facilitate as far as I can the intelligent action of Congress upon the subjects embraced in this bill, I transmit, herewith, a report from the Engineer Department, distinguishing, as far as the information in its possession would enable it, between those appropriations which do, and those which do not, conflict with the rules by which my conduct in this respect has hitherto been governed. By that report it will be seen that there is a class of appropriations in the bill for the improvement of streams, that are not navigable, that are not channels of commerce, and that do not pertain to the harbors or ports of entry designated by any law, or have any ascertained connection with the usual establishments for the security of commerce, external or internal.

It is obvious that such appropriations involve the sanction of a principle that concedes to the General

Government an unlimited power over the subject of internal improvements; and that I could not, therefore, approve a bill containing them, without receding from the positions taken in my veto of the Maysville road bill, and, afterwards, in my annual message of December 7, 1830.

It is to be regretted that the rules by which this classification of the improvements in this bill has been made by the Engineer Department are not more definite and certain, and that embarrassment may not always be avoided by the observance of them; but, as neither my own reflection, nor the lights derived from other sources, have furnished me with a better guide, I shall continue to apply my best exertions to their application and enforcement. In thus employing my best faculties to exercise the powers with which I am invested, to avoid evils, and to effect the greatest attainable good for our common country, I feel that I may trust to your cordial co-operation; and the experience of the past leaves me no room to doubt the liberal indulgence and favorable consideration of those for whom we act.

The grounds upon which I have given my assent to appropriations for the construction of light-houses, beacons, buoys, public piers, and the removal of sand-bars, sawyers, and other temporary or partial impediments in our navigable rivers and harbors, and with which many of the provisions of this bill correspond, have been so fully stated, that I trust a repetition of them is unnecessary. Had there been incorporated in the bill no provisions for works of a different description, depending on principles which extend the power of making appropriations to every object which the discretion of the Government may select, and losing sight of the distinctions between national and local character, which I had stated would be my future guide on the subject, I should have cheerfully signed the bill.

ANDREW JACKSON.

Dec. 6.

Mr. TAYLOR moved that the communication be laid on the table and printed; but withdrew his motion at the request of

Mr. WICKLIFFE, who moved its reference to the Committee on Internal Improvement; which was agreed to.

Mr. CLAY, of Alabama, subsequently moved to reconsider the above vote on the ground that the question had not been understood by all the House.

After some conversation between him and Mr. WICKLIFFE, he agreed to postpone the consideration of his motion for reconsideration until to-morrow.

Mr. EVERETT offered the following resolution, which lies on the table one day:

Resolved, That the President of the United States be requested to communicate to this House, as far as the public service will permit, such portions as have not heretofore been communicated, of the instructions given to our ministers in France on the subject of claims for spoils, and of the correspondence of said ministers with the French Government, and with the Secretary of State of the United States on the same subject.

The hour appointed for proceeding to the election of a Sergeant-at-arms, having arrived, the House proceeded to the ballot: twenty-six

candidates were nominated for the office. After three unsuccessful ballotings, the result on the fourth ballot stood as follows:

For William J. McCormick	-	-	35
William B. Robinson	-	-	29
William A. Gordon	-	-	25
Jonathan Nye	-	-	25
Thomas B. Randolph	-	-	25

And many scattering votes.

The House then adjourned to Monday next.

MONDAY, December 10.

Election of Sergeant-at-arms.

The House then again proceeded to ballot for a Sergeant-at-arms, to supply the vacancy in that office occasioned by the resignation of John Oswald Dunn; and, on the ninth ballot, Thomas B. Randolph, of Virginia, was elected.

TUESDAY, December 11.

Falls of the Ohio.

On motion of Mr. CARR, of Indiana, the petitions of the citizens of the State of Kentucky and Indiana, praying for an appropriation to be made to improve the Indian Chute, through the falls of the Ohio river, which were referred to the Committee on Internal Improvements at the last session of Congress, and not acted upon, are again referred to said committee. In making this motion,

Mr. C. remarked, that it was a subject in which a large portion of the commercial and agricultural community of the West felt a deep interest, and hoped that the action of the House might be had upon it during the present session.

The Public Lands.

Mr. CLAY, of Alabama, offered the following:

Resolved, That the Committee on Public Lands be instructed to inquire into the expediency of reducing the price of such portions of the public lands as have been offered at public sale, and have remained unsold for the period of five years and upwards.

Resolved further, That said committee inquire into the expediency of relinquishing to the respective States in which they are situated, such portions of the public lands as may have been offered at public sale, and, being subject to private entry, have remained unsold for the period of ten years.

Mr. WILLIAMS, of North Carolina, observed that the resolution involved a very important question—perhaps as important a one as had ever been offered to the consideration of Congress; and he wished that its consideration should be postponed to Monday next. Why was this unceasing demand heard for the relinquishment by the United States of all its public lands? For his own part, he was unable to give any good reason for it; and as he desired time to reflect on the subject of the resolution, he moved its postponement till Monday.

Mr. CLAY said that this was a species of

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Federal Courts—Lien Laws in behalf of Builders.

[H. OF R.]

opposition, and at a stage of the resolution, which he had not anticipated. The resolution proposed a simple inquiry, and did not go to commit the House. What injury could result from confiding such an inquiry to one of the standing committees of the House? Was the gentleman unwilling that even an inquiry should be instituted? Was he unwilling to hear a report from one of the committees of the House? He would not at present urge the considerations which in his judgment ought to induce Congress to concede to the new States all they asked on this subject. Were this the proper time, he could urge the many and great disadvantages under which the new States labored from having a large part of their territory beyond the reach of their taxation for revenue; and he was prepared to show, from the documentary evidence, that for a large portion of the public domain it was impossible that the Government should ever obtain even the minimum price allowed by law. But he should not press those topics now. He hoped the resolution would not be postponed.

Mr. WILLIAMS replied to Mr. CLAY, and was proceeding to show that the old States had as great a right to retain, as the new States to claim, the public domain; and should those lands be ceded, the old States would experience as much injury as the new States could obtain benefit; but

The CHAIR arrested the discussion, as going into the merits on a question of postponement.

Mr. WILLIAMS having demanded the yeas and nays on his motion to postpone, they were taken; and stood—Yeas 106, Nays 78.

MONDAY, December 17.

Federal Courts—Expenses.

Mr. VERPLANCK, from the Committee of Ways and Means, offered the following resolution:

Resolved, That the Committee on the Judiciary be instructed to inquire and report what law or other regulation may be necessary for diminishing the annual expenses of holding the Supreme, Circuit, and District Courts of the United States, &c., including the contingent charges of the Judiciary establishment, and the expenses of suits and prosecutions chargeable to the United States.

Mr. V. said that this resolution was offered in consequence of an item in the bill just reported by himself. That bill contained an additional appropriation for the various expenses of the courts of the United States, and of suits and prosecutions chargeable to Government during the present year, in addition to the annual appropriation made for that purpose at the last session. As that appropriation was now exhausted, and as a further grant seemed absolutely necessary for the ordinary operation of the courts, the committee had no hesitation in now recommending the allowance of the sum requested by the department. But in examining the causes of the deficiency, and comparing the expenses of several years last past, they

had perceived that for several years there has been a large and continual increase of these expenses; and this, so far as they could ascertain, from circumstances on which the Treasury Department could have little or no control. One large item of this increase was in the District of Columbia. The special committee who had prepared, and were about to report a code for the government of this district, (as the Committee of Ways and Means were informed,) were about to propose a remedy for this evil. The committee, in the hope that a similar remedy might be extended to the general judicial system, had determined to call the attention of the Judiciary Committee to the subject in a special manner.

The resolution was agreed to.

Lien Laws in behalf of Builders.

The lien bill, (giving to workmen within the District of Columbia, engaged in building a house, and those who furnished the materials, a lien upon the house when built,) having been read a second time—

Mr. WASHINGTON said that the bill had been brought forward last session. The measure which it advocated was one which had met with the universal approbation of the mechanics and tradesmen of the city of Washington. It was a bill projected for the purpose of protecting those persons, and others of the city, from a species of fraud which had been frequently practised upon them by persons, whose affairs were in a state of bankruptcy, purchasing land on mortgage, building upon it, and then selling the property, leaving the workmen and those who supplied the building materials unpaid. The bill had been prepared with great care and attention, at the unanimous request of the people of Washington city; and, in the framing of it, it was endeavored so to do it that every class might be provided for; and it was done at the instance of men of respectability. The city had been liable to great impositions. Owing to the circumstances of its being the seat of Government, and other causes, persons had come to it from all parts of the globe; adventurers had undertaken contracts which they were unable to fulfil, and thus brought ruin upon themselves and others. For the injury done the adventurers cared but little; many of them had no characters to lose; and all they had to do was to try their fortunes elsewhere; but, whilst speculators might come to the city, and undertake work, frequently absconding and leaving the demands of both the tradesman and the mechanic unsatisfied, it seemed to him to be requisite that the mechanic and tradesman should have security against this species of fraud.

Mr. ROOR said he believed the gentleman was mistaken as to one fact in what he had said relative to the operation and extent of the lien laws. The gentleman had said that the law proposed in the bill, then offered to the House, was the same as those of New York and Phil-

adelphia. Of the existence of such a law in Philadelphia, he (Mr. R.) had heard; he did not know if it was so; but as to the State of New York, he did know that application had been made for the passage of such a law, and to apply it to the cities and villages, as well as to the city of New York; but the applicants failed of success. With the details of the present bill he was unacquainted; nor had he been able to ascertain precisely what they were, although the bill had been read by the clerk. As far as he understood, however, it was proposed to give to the laborers, as well as to those who furnished the materials, a lien on the houses which they built; which mortgage was to remain for a definite time—for two or three years; and whosoever purchased the house was bound to pay up all this variety of mortgages, from the pane of glass in the windows to the hob-nail driven into the wall. Such a law would not be for the interest either of the mechanic or the proprietor, whilst it would injure the purchaser, and stop the growth of the city, if property should be thus encumbered. Other laborers had no such security. He believed the lots of the city were sufficiently mortgaged already to admonish purchasers, without superadding mortgages on the nails, glass, and hinges, as well as the shingles and timber, with which the houses were erected. And how were the purchasers to know how many mortgages a house was encumbered with? He did not know that any provision was made in the bill for registering these mortgages. If there was not, how were purchasers to be advised as to the responsibilities they had to assume? He (Mr. R.) thought it would be an incumbrance to builders, and an objection to purchasing any house until after the lapse of the time when the purchaser might come in, secure from a mortgage on his purchase, for a pane of glass or a hundred four-penny nails.

The bill was ordered to be engrossed for its third reading.

THURSDAY, December 27.

General Macomb.

The bill for the relief of General Macomb came up for its third reading.

[This bill proposes, only, in so many words, to release General Macomb from all responsibility as the security of Samuel Champlain, in a bond given by him, as paymaster in the army, bearing date 8th May, 1811; but the report accompanying the bill has reference to certain brevet pay due to General Macomb, as constituting an offset in his favor as the surety of Champlain.]

Mr. SEMMES observing that the bill contained a very important principle, desired to hear something more in explanation of its provisions, before he was prepared to vote upon it.

Mr. BLAIR, of South Carolina, agreed with Mr. SEMMES, and considered the bill as one which went to establish a principle that would,

by releasing securities, if carried out, destroy the security of the Government for moneys due to the Government by principals.

Mr. JOHNSON, of Kentucky, thought that, when the facts were understood, none could object to the bill. Dozens of similar cases had been provided for by special legislation. General Macomb had been security for an officer who had become a defaulter to the Government; the Government had suffered the case to remain many years without prosecuting, and, in the meanwhile, had promoted the officer. General Macomb had been ordered to a distance in his country's service, and had no opportunity of urging the officers of Government to do their duty in the case, and he ought not to suffer for the negligence of the Government.

Mr. SEMMES thought the statement given was sufficient proof that the bill ought never to have gone to the Military Committee. It was not a military subject, but more properly pertained to the Committee on Claims or that on the Judiciary.

Mr. VANCE, perceiving that there had been some misunderstanding on the part of the gentleman (Mr. WADE) who had drawn up the report, as to the views of the Military Committee, intended to have been embodied in it, moved to postpone the consideration of the bill for one week; which was agreed to.

FRIDAY, December 28.

The Tariff—Reduction of Duties.

Mr. VERPLANCK, from the Committee of Ways and Means, to which was referred so much of the President's Message as relates to such further reduction in the revenues as may not be required for objects of general welfare and public defence, authorized by the constitution, made a report, intended to accompany the bill (reported from the Committee of Ways and Means yesterday) to reduce and otherwise to alter the duties on imports; which report was read, and committed.

Mr. CAMBRELENG moved for the printing of 5,000 extra copies of the report. This motion, by rule, lies one day on the table.

Reduction of Postage.

The following resolution was offered by Mr. E. EVERETT.

Resolved, That the Committee on the Post Office and Post Roads be instructed to inquire into the inexpediency of reducing the rates of postage on letters, pamphlets, and newspapers.

In moving this resolution, Mr. EVERETT observed that the subject had, at the last session, been presented to Congress, by petition, from the portion of the country which he in part represented. He had then urged the justice of the measure recommended. Believing it still both just and peculiarly seasonable, he was induced, in this way, to bring it to the consideration of the House; and, in doing so, he would briefly explain the view which he took of it.

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Reduction of Postage.

[H. OF R.]

Few persons who had not turned their attention particularly to the Post Office were aware what a vast and expensive establishment it had become. In giving it this character, however, he by no means intended to say that its operations ought to be contracted; on the contrary, he would go as far as any one in extending the accommodation which it afforded to the people. But the view he took of the subject made it necessary to state the expense at which it is supported; and which, for the year ending July, 1832, amounted to the large sum of 2,266,100 dollars, of which 2,258,570 dollars were actually levied, in the form of postage, during the last year. The entire expense of the navy of the United States is but 3,379,000 dollars, and that of the whole civil list, foreign intercourse and miscellaneous department of the Government is but a trifle over \$3,000,000. These comparisons show that the Post Office establishment, if among the most useful, is also among the most expensive establishments of the country.

This expense is not defrayed from the treasury, as that of the other public establishments, but by a specific tax, levied on a portion of the people, viz: those who receive letters and packets by mail, charged with postage. One of the objects to which I wish to draw the attention of the committee is, the inquiry whether, as the Post Office establishment is partly for the service of the public, as well as partly for the accommodation of private individuals, the entire expense of it ought to be thrown upon the latter? And another point of inquiry is, whether the burden of supporting that part which is for private accommodation is fairly apportioned?

If the Government levied no more from the individuals served than it costs the Government to render the service to these individuals, there would, of course, be no cause of complaint. Or, if the state of the treasury required that more should be raised from the payers of postage than the establishment costs to the Government; then if the excess were equitably apportioned among all who pay it, there would be no injustice. But neither of these is true. On the present system, the Government, by penal laws, secures to itself the monopoly of the business, and then charges the expense of carrying it on to a portion only of the people, and, as I think, upon inequitable principles.

In the first place, there is frequently a considerable surplus over and above the whole expense of the establishment: thus, the year before last, there was a surplus of more than 200,000 dollars. In the present state of the treasury there surely can be no reason in raising a revenue of this kind by a Government monopoly.

In the next place, there is a very considerable number of post routes which are unproductive; that is, which cost more to keep up than they yield. The law requires a return to be made to Congress of those that yield less

than a third of the cost of maintaining them; but no return is made of all the others, and those which are returned are rarely if ever discontinued. I am not for discontinuing them, unless they are useless or superfluous, as well as unproductive. I am willing to pursue the most liberal policy in multiplying them. But why are unproductive post routes established and kept up? Of course, because the public good, or the interest of the inhabitants on the route requires it, or both. But whether it be one or the other, or both, it is plain that the expense, if not borne by the inhabitants on the route, (those immediately benefited,) should be borne by the public at large, and paid out of the public treasury. It cannot be just to charge it, as we now do, to the individuals who pay postage on some other route, thus making them pay their own postage and that of their fellow-citizens.

Lastly, there is the vast quantity of letters, papers, and documents which are transported free of postage. The whole correspondence of the Government, external and internal, foreign and domestic; the voluminous documents, which we print here by thousands and tens of thousands, and the entire correspondence of seven or eight thousand postmasters; all those are transported free of expense to those who despatch and those who receive them. I am not for curtailing this privilege; it is essential (to some extent) to carry on the public business; and where not essential, it is designed and operates for the benefit of the people. But who ought to pay for it? Somebody must pay for it. We write free on the packets, but when we have done so they acquire no locomotive power; they do not fly through the air; they are carried along and distributed, by the usual means of transportation, to the amount of more tons than I will venture to estimate, in the course of the year. But this transportation, which takes place for the immediate service of the Government and the general accommodation of the people, instead of being paid for by the treasury, is thrown upon one class of the citizens, who are compelled by the Government to pay for carrying their own letters, and then for all the free letters, documents, and packages of the Executive and Legislative Departments. This seems to me unjust and unreasonable in the present condition of the treasury.

I think, therefore, that the cost of the unproductive post roads, instead of being borne by a part of the people, should be borne by the whole—should be a public charge. How much it would amount to in the course of the year I do not know; but the books of the Post Office, I presume, would furnish the amount on inspection.

In the next place, I think the treasury ought to be charged a reasonable sum on account of the transportation of letters and documents free of postage. What would be a reasonable sum depends on the proportion which this part of the transportation by mail bears to all the rest:

I suppose that the two items together would fairly amount, in the present state of affairs, to over a million of dollars annually; that is, to one-half of the present cost of the establishment.

This would, of course, authorize a corresponding reduction in the present rates of postage; a reduction which ought, on every principle of equity, to take place.

In making the reduction, a new graduation of rates of postage might, I think, with propriety be made. I do not pretend that the amount charged can be made in all cases to correspond mathematically with the distance to which the letter is carried; but it seems too wide a departure from this rule, that while a letter from Boston to New Orleans pays but a quarter of a dollar, a letter from Boston to Washington should pay as much. The exaction of double postage for putting your letter into an extra half sheet, or for enclosing a five dollar bill in it, is also, I think, unnecessarily onerous.

The postage on pamphlets and newspapers might likewise be advantageously reduced. It is at present a heavy tax on literature and intelligence, not needed by the treasury. By combining with this reduction the method adopted in England to prevent the letter mail from being overloaded with other articles, or some other method for the same object, I think the convenience and interests of the people would be greatly promoted, and as acceptable a service rendered them as any in our power to render, in the way of reducing and equalizing taxation.

Mr. CONNOR, of North Carolina, said he did not object to the views of the gentleman from Massachusetts, (Mr. EVERETT); he would, on the contrary, go as far as any body in supporting every practicable reduction of the postage on letters newspapers, pamphlets, &c. If he understood the proposition of the honorable member, it had reference not only to a reduction of the postage, but also to the expediency of throwing the Post Office Department on the public treasury. He thought such a proposition would not be sustained by the House then or at any other time. It never was intended that the Post Office should be a source of revenue; but it was intended that it should bear its own expenses. Contrary to expectation, it had done this and more. At different times a million or two had accrued at the treasury from the Post Office Department; which sum it would have a just right to call on the treasury for at any time when it might be needed. But, as an individual, he was not willing to burden the public treasury with a responsibility for the Post Office Department. The gentleman was well aware how the great amount of surplus has been disposed of; it had been expended in forming routes, and making openings through various sections of the country, to facilitate the communications of the citizens in the different parts of the Union. Last year, up to July, there was a surplus of 200,000 dollars which had been thus

applied. In the present year there was said to be a small deficiency of some 5 or 6,000 dollars; but then they were informed that it would exceed by as great an amount the next year.

SATURDAY, December 29.

Reduction of Postage.

The resolution offered by Mr. EVERETT, of Massachusetts, came up.

Mr. WILDE said, the proposition of the gentleman from Massachusetts was, in effect, to charge the Post Office on the customs. This would be virtually to discharge that House from the further consideration of reducing the duties to that extent. Adding two millions to the duties on imports, in the present state of our affairs, was like throwing water on a drowned man. In Mr. W.'s part of the country the chief distinction recognized among politicians here, was between those who wished less money to be raised by duties, and those who tried to find new ways of spending it. Among the latter class, he was forbidden to rank the gentleman from Massachusetts, (Mr. EVERETT.) That gentleman placed his resolution on the footing of its proposing a reduction of oppressive and unequal taxation. He (Mr. W.) accepted the omen. On a proper occasion he should be proud to have the support of the gentleman to that object. He was happy to hear the general principle avowed, though he feared there might arise some unfortunate difference of opinion between them, when they came to its application in detail.

With respect to postage, Mr. W. denied that it could, with propriety, be called a tax. It was not unequal. If it was mostly paid by the inhabitants of cities, they, too, derived the greatest advantages from it. So far as it was a charge on commercial correspondence, the merchants were indemnified by increased facilities afforded to enterprise and speculation. The cities received from abroad the earliest intelligence of events, which regulated prices in our markets, and these were often of sufficient consequence not merely to defray the charge of postage, but to warrant the expense of expresses. So far as political and literary information was concerned, the publishers of newspapers, magazines, and pamphlets, in the cities, derived the profits of a more extensive demand for their works, which the mail enabled them to circulate more widely.

There seemed to him no more propriety in maintaining that each part of the country should defray the expense of its own post routes, than in saying that the seaboard ought to pay for its own fortifications, and commerce for the navy that protects it.

As to the oppressive character of the charge of postage, he was not apprised that it had ever been complained of. If it had ever been galling, the sore must have grown callous. Providence, it was said, fitted the yoke to the neck;

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it fitted the neck to the yoke also. This had been worn until it became comparatively easy. Other burdens still touched the quick, and must be got rid of. In this manner the topic of postage had been considered and disposed of by the Committee of Ways and Means; and as he should be sorry to see that disposition of it at present disturbed, he felt bound to say thus much, merely to prevent the opinion of the House being prematurely affected by the great weight to which every thing that fell from the gentleman from Massachusetts was justly entitled.

Mr. HOFFMAN said, the proposition advanced in the gentleman's argument went, if he understood it, to pension the Post Office Department upon the public treasury. Such a scheme contained, at first blush, a manifest impropriety. During the last fifteen years it had been the settled policy of the Government to make this department support itself. It was a settled principle in this country that the transmission of intelligence should never be made a subject of taxation. The proposition in the resolution was, therefore, impolitic; contrary to the fixed policy and principles of this country. But it was quite as unjust as it was impolitic. The principal argument urged by the gentleman in its behalf, and the chief subject of his complaint in the existing state of the department, was the vast inequality of the operation of the present law of postage, the practical effect of which was said to be that the whole expense of the transmission of letters throughout the country was borne by a few persons. Mr. H. did not think that such was the case in point of fact. By whom was the greater part of the postage at present paid? First, by members of the legal profession, who transmitted the necessary papers connected with the causes in which they were engaged; this expense was always charged by the lawyers to their clients, and by them paid. Another class was the printers of newspapers and periodicals, and they charged the postage to their subscribers and customers. A third class consisted of merchants and men of business, and it was well known that postage formed an item of charge in their mutual accounts. The burden, then, fell on wide classes of the community, and was made a practice, as equal in its purpose, as in the nature of things was possible.

But, supposing the project of the gentleman from Massachusetts was adopted, by whom would the amount then be paid? It would be taken from the pockets of hundreds and thousands who had little or no concern in the transmission of letters, papers, or books at all. All these would be made tributary to the expense of an establishment with which they had scarce any thing to do, and from which they derived scarce any sensible benefit. The charge, surely, ought to be borne by those who were directly benefited by the establishment; and if any part of our population should be exempt, it ought to be those who had little or no interest in the transmission of the mails. The gentleman's

scheme, instead of remedying, would aggravate and increase any inequality which existed at present. The gentleman complained of gross injustice in compelling the productive mail routes to bear the whole expense of those which were unproductive. But this complaint was as unfounded as the other. If the unproductive routes were to be pensioned upon the treasury, how was the department to ascertain which routes were unproductive and which were not? The reduction of the rates of postage would speedily operate to render many routes unproductive which now supported themselves, and sent a balance to the department. The gentleman would soon find that he had got the department into a situation where its difficulties were far more and greater than ever. Its old difficulties would be increased, and new ones created.

WEDNESDAY, JANUARY 2.

Reduction of Postage.

The resolution heretofore offered by Mr. E. EVERETT, coming up,

Mr. EVERETT observed, that though he had not anticipated, in offering this resolution, that it would consume so much of the time of the House, yet he believed the subject to which it referred was of importance enough to deserve all the time which it had occupied, or might yet occupy. He did not himself, however, intend to protract the debate; but as his objects had not been correctly stated, nor his arguments answered by any of the gentlemen who had followed and opposed him, he would trouble the House with a brief additional explanation.

Of the several gentlemen who had spoken against the resolution, not one has attempted to refute the broad principle, that as the Post Office establishment was partly for the public service, and partly for private accommodation, it was not just that the entire expense of it should be charged to one class of private individuals. The gentleman from Georgia (whose ingenuity had not found a reply to one of Mr. E.'s arguments) had said, that the resolution went to charge the Post Office on the customs. This was giving the resolution, to say the least, twice the latitude intended. Mr. E. had intimated only that a part of the expense of the Post Office (that part which was not for the service of the payers of postage) ought to be charged to the people at large; that is, ought to be charged to those for whose good the expense was incurred. The gentleman might call this charging the Post Office on the customs; but, if it were so charged, it would be precisely in the condition of the army, navy, executive, legislative, and judicial departments of the Government; and, in short, every public institution and establishment. These are all "charged to the customs," precisely because the people of the United States had, from the first, given a preference to indirect taxation,

as that method of raising the public revenues, whose burdens were most equally diffused and least felt. Why, the cost of that portion of the Post Office establishment, which was for the direct service of the public, or for the accommodation of individuals, who do not themselves pay for it, should not be defrayed as all other public establishments are—why it should be charged to a limited class of private citizens, who are not otherwise benefited than the rest of the community, I cannot conceive; nor has any gentleman, by any plain and common sense argument, attempted to show.

The gentleman from Georgia (Mr. WILDE) had said that it was unreasonable to press a measure of this kind at a moment like this, and that, in its operation, it would interfere with a great matter which the House had in hand. On the contrary, I hold it is precisely the right time for the introduction of the proposition, and, instead of interfering with the matter to which the gentleman alludes, I take it to be fairly part and parcel of that matter, and expressly referred to the Committee of Ways and Means, of which the gentleman is a member, as one of the points alluded to in the message at the opening of the session. The President says: "The subject of the revenue is earnestly recommended to the consideration of Congress, in hope that the combined wisdom of the Representatives of the people will devise such means of effecting that salutary object, as may remove those burdens which shall be found to fall unequally upon any."

Now, sir, I have proved that the burden of the Post Office establishment falls very unequally, and the gentleman refuses to relieve those oppressed by it, because he has in hand a general plan for relieving those who suffer under what they think unequal taxation. I maintain that this Post Office tax, the heaviest single tax which the people pay, amounting to two and a half millions annually, is demonstrably unequal in its apportionment. All the other taxes in the country are levied on consumption, and that is as near an approach to equality as can be made. The postage tax, instead of interfering with a plan for removing unequal taxation, is in reality the only burden with which I am acquainted, which falls unequally on any of the people. Sixty or seventy tons of franked documents is, literally as well as financially, an enormous burden to throw on a single class of the community; to say nothing of the unproductive routes, the cost of which is also cast on the same individuals.

The gentleman from New York (Mr. HOFFMAN) had said that if the Post Office were not thrown on the treasury, the time would come when the treasury would make drafts on the Post Office; if we did not keep the Post Office and treasury distinct, whenever the latter ran low the government would resort to postage as a source of revenue. Sir, that will be done at any rate. Whenever the ordinary sources of public income, derived from the customs, are

cut off, and it becomes necessary to resort to direct taxation, the Post Office will be among the first objects resorted to. In the last war the rates of postage were doubled. Foreseeing such an increase of postage hereafter, as the possible result of my proposition, the gentleman said my plan tended to tax intelligence and information for the use of the treasury. I say, on the contrary, I wish to prevent intelligence and information being taxed to carry on the various branches of the public service; and it is a very insufficient reason for refusing to take off the tax now that you may have to put it on again hereafter. Let us take it off now that we can, and keep it off as long as we can; it will be time enough to put it on again when we must.

Mr. HOFFMAN observed, in reply, that he had remarked, on a former day, when this subject had been under discussion, that, if the gentleman had submitted his resolution without the accompanying observations, it would probably have passed in silence, as containing some proper suggestions to the Post Office Committee. But the gentleman had thought proper to favor the House with his views and reasons for introducing it, from which it had appeared that the reasonings on which the resolution was founded, were wholly fallacious, and the purpose of its introduction very different from what might be gathered from the tenor of the resolution itself. The gentleman's whole argument, as it has now been put, lay in this fact that the transmission of intelligence among the people of the Union was charged with the expense of the transmission also of the public documents, especially those printed and circulated by order of the two Houses of Congress. This might be a very good argument in favor of a reduction of the franking privilege; but for nothing else. If it was true that the two Houses were in the habit of franking more than they ought to do, it was easy to remedy the evil, by curtailing the power. Confine the franking privilege to the officers of Government, or limit it in point of time. The argument might avail against the people's reading so much, or against the Houses franking so much, or in favor of their franking more selectly; but it was no argument for the reduction of the rates of postage. Still less was it any reason why the expenses of the Post Office should be charged upon the treasury. Did not the treasury already contribute largely to the expense of that department? The legislation of the House, while occupied in examining and passing upon proposed mail routes, was paid for out of the treasury. A large share of the action of the department itself was sustained from the same source. All the salaries of the numerous officers of the establishment came out of the treasury, and he had no doubt, if the matter were fully investigated, it would appear that a large part of the charges attending the transmission of the forty tons of documents, of which the gentleman had spoken, came from the same place.

But, allowing the burden to be as unequal as

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the gentleman had represented it to be, his own proposition would render it still more unequal. Those who paid now were persons who derived at least some advantages from the transmission of the mail; but those whom the gentleman wished to compel to pay, were persons who were almost entirely unconnected with it; who seldom sent, and as seldom received letters by mail at all.

THURSDAY, January 8.

Reduction of Postage.

The House then resumed the consideration of the resolution submitted on a preceding day by Mr. EVERETT, of Massachusetts, instructing the Committee on Post Offices and Post Roads to bring in a bill reducing the rates of postage.

Mr. CAMBRELENG said that he had an amendment to propose, which might, perhaps, meet the approbation of the gentleman who offered the original resolution, and of the House also; it was simply to provide that the efficiency of the Post Office should not be impaired, nor its ability to sustain itself diminished. Mr. C. then offered the amendment.

Mr. EVERETT regretted that there should be any objection to a resolution of inquiry going to the Post Office Committee. The character of that committee was, he should have thought, a sufficient guarantee that nothing injurious to the public interest could be expected at their hands. He was of opinion that the resolution should be referred without the restrictions imposed by the amendment; but, rather than it should be rejected, he would vote for the resolution with the addition of the amendment.

Mr. POLK said that, as he could not perceive any necessity for acting on either the original proposition or the modification suggested by his friend from New York (Mr. CAMBRELENG), he should move to lay the resolution and amendment on the table.

On this motion Mr. EVERETT demanded the yeas and nays; which being taken, stood—Yeas 89, Nays 89.

The CHAIR gave the casting vote in the affirmative; so the resolution was laid on the table.

Tribunal for Claims.

Mr. HOGAN moved the following resolution:

Resolved, That the Committee on the Judiciary be instructed to inquire and report on the expediency of establishing a judicial tribunal, which shall take cognizance of all claims and demands of individuals on the Government of the United States, and decide on the validity thereof, in accordance with the principles of equity and law, and established rules of evidence.

Mr. H. accompanied his motion by some remarks on the great number of private bills on the calendar of the House; the consumption of time annually occasioned by discussing them, and the small degree of attention usually bestowed by a vast majority of the House on their discussion. He stated, as his opinion, that private individual claims for more than a million

of dollars, might be substantiated against the United States, were it allowable to sue the national sovereign; but, since this could not be allowed, they must be settled by Congress, and the expense of so doing would not amount to less than three millions of dollars. The resolution was agreed to.

Reduction of the Tariff—Mr. Verplanck's Bill.

On motion of Mr. VERPLANCK, the intervening orders were postponed, and the House went into Committee of the Whole, Mr. WAYNE in the chair, and, by a vote of 94 to 78, took up the bill "to reduce and otherwise alter the duties on imports."

[The bill omitted. Its character and effect will be well understood from the debates, and especially from the opening speech of the Chairman of the Committee of Ways and Means, (Mr. Julian Verplanck, of New York, reporter of the bill, and its parliamentary expounder to the House,) showing that it would make a reduction of \$13,000,000 on the tariff of 1828, and still yield \$19,500,000, which, with \$8,000,000 from other sources, would make \$22,000,000—which would be \$7,000,000 more than the Government would require, the public debt being paid. He estimated \$13,000,000 as the necessary current expenses of the Government; and \$15,000,000 as the maximum amount that ought to be raised to meet extraordinaries and contingencies; so that a further reduction of \$7,000,000 might be made after the little remaining fragment of the public debt should be extinguished.]

On motion of Mr. VERPLANCK, the bill was committed to a Committee of the Whole House on the state of the Union.

Mr. VERPLANCK said that he rose to invite the attention of the committee to the examination of the details of the bill now before them, and for that purpose only. It was true, that this was a bill which might serve as an occasion for expatiating upon topics that always awakened much interest. The great question of constitutional right might be argued. The question of the incidence or bearing of taxation, together with other not less important theories of political economy, might be now discussed. But, for myself, I feel that after the years during which Congress, and public men elsewhere, as well as the press, have discussed these points, and especially after the ample discussion which has taken place during the present Congress, it would be presumption for me to think that I could now contribute any new general views that would enlighten the House or the nation. In making these remarks, I speak not only my own unfeigned opinion, but as I am fully authorized, that of those of my colleagues on the Committee of Ways and Means, who have joined with me in reporting this bill.

As members of this House, we have some of

us, on this floor, and all of us in some way or other, made known our views to our constituents. The people have the whole of the general argument before them. It is now to a more practical and urgent duty that I would invite the attention of this body. It is one growing out of the financial state of our Government, and its legislation.

The last war left the nation laboring under a weight of public debt. The payment of that war debt was one of the great objects of the arrangement of our revenue system at the peace, and it was never lost sight of in any subsequent arrangement of our tariff system. Since 1815 we have annually derived a revenue from several sources, but by far the largest part from duties on imports, of sometimes twenty, sometimes twenty-five, and recently thirty-two and thirty-three millions of dollars a year.

Of this sum 10,000,000 dollars always, but, of late, a much larger proportion, has been devoted to the payment of the interest and principal of the public debt. At last that debt has been extinguished. The manner in which those burdens were distributed under former laws, have been, heretofore, a subject of complaint and remonstrance. I do not propose to inquire into the wisdom or justice of those laws. The debt has been extinguished by them; let us be grateful for the past. We are now to enter upon another, an honorable and gratifying duty, the reduction of the taxes of the people—the alleviation of the public burdens.

Here Mr. V. gave a brief view of the financial history of our Government since the peace of 1815, in which he stated that, during the last six years, an annual average income of 27,000,000 of dollars had been received; the far greater part from the customs. That this sum had been appropriated, the one-half towards the necessary expenses of the Government, and the other half in the payment of the public debt. In reviewing the regular calls upon the treasury, during the last seven years, for the civil, naval, and military departments of the Government, including all ordinary contingencies, about 18,000,000 of dollars a year had been expended. This amount of 18,000,000 of dollars would seem, even now, sufficient to cover the standing necessary expenses of the Government. A long-delayed debt of public justice, for he would not call it bounty, to the soldiers of the revolution, had added for the present, since it could be but for a few years only, an additional annual million. Fourteen millions of dollars then covered the necessary expenditures of our Government. But, however rigid and economical we ought to be in actual expenditures, in providing the sources of the revenue, which might be called upon for unforeseen contingencies, it was wise to arrange it on a liberal scale. This would be done by allowing an additional million, which would cover, not only extra expenses in time of peace, but meet those of Indian warfare, if such should arise, as well as those of increased naval expenditure, from temporary

collisions with foreign powers, short of permanent warfare. We are not, therefore, justifiable, in raising more than 15,000,000 dollars as a permanent revenue. In other words, at least 18,000,000 dollars of the revenue that would have been collected under the tariff system of 1828, may now be dispensed with; and, in years of great importation, a much larger sum. The act of last summer removed a large portion of this excess; yet taking the importation of the last year, as a standard, the revenues derived from that source, if calculated according to the act of 1832, would produce 19,500,000, and with the other sources of revenue, an income of 22,000,000 dollars. This is, at least, seven millions above the wants of the treasury.

It was this excess of public burdens which the Committee of Ways and Means have felt it to be their duty now to call upon Congress to reduce. The task of regulating the rate and manner of that reduction was neither easy nor enviable. We all must know that large sections of the country throughout, as well as various classes of the community in every section of the country, have complained, or remonstrated against the unequal operation of the public burdens. It is certain, too, that, under any plan of finance whatsoever, of long duration, various interests must grow up, which cannot but be subject to great injury, from a change even for a better, and less onerous system.

The committee have felt all these difficulties. They have approached the subject not with rashness or presumption, but with humility. They have endeavored to profit by the lights of long experience, and of former legislation. Whatever may be the defects of their bill, they confidently claim for themselves the merit of honest and sincere intention. They trust that no local or personal interests, and certainly no views or feelings of party politics, have been suffered to influence them. They have desired and endeavored to conduct the deliberations of their committee-room in the spirit of justice, conciliation, and of peace; and it is in this spirit that they now invite this body to the examination of the bill before them.

WEDNESDAY, January 9.

Reduction of the Tariff.

The House having again gone into Committee of the Whole and resumed the consideration of the bill to reduce and otherwise alter the duties on imports:

Mr. HUNTINGTON, of Connecticut, said: The Committee of Ways and Means had presented this bill, as containing provisions to insure the revenue from the customs, which, with that from other sources, would be sufficient for the wants of an economical, but efficient Government. The principle which formed the basis of the bill was that the Government would require but fifteen millions of dollars for its annual expenditure; of which twelve millions and a half were to be raised from the customs,

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and two millions and a half from the public lands. It had been stated by the committee, in their report, that they considered it their duty to present to the House a bill which should be gradual in its operation on the existing establishments of the country. In this respect the committee had expressed the same sentiments which were contained in the Executive message, and in the report from the Treasury Department. The report uses the following language: "It has been the wish of the committee to guard against a sudden fluctuation of the price of goods, whether in the hands of the merchant, the retailer, or the manufacturer. With this view, they have made the reduction upon the more important protected articles, gradual and progressive."

The President, in alluding to the subject, says: "If, upon the investigation it shall be found, as it is believed it will be, that the legislative protection granted to any particular interest, is greater than is indispensably requisite," (for the objects previously specified,) "I recommend that it be gradually diminished, and that, as far as may be consistent with these objects, the whole scheme of duties be reduced to the revenue standard, as soon as a just regard to the faith of the Government, and to the preservation of the large capital invested in establishments of domestic industry, will permit." "Large interests have grown up, under the implied pledge of our national legislation, which it would seem a violation of public faith suddenly to abandon." The Secretary of the Treasury, in recommending a reduction of the revenue, says: "The necessity of adopting the proposed changes to the safety of existing establishments, raised up under the auspices of past legislation, and deeply involving the interests of large portions of the Union, is not less imperious in the further changes which may be deemed expedient."

Such had been the sentiments always avowed by those who believed that the protective system ought to be abandoned. But how does the bill correspond with these opinions and views thus expressed? Was that a gradual reduction of the protected duties, which annihilated the whole in two years? Was this the "gradual diminution" of which the President and the Secretary of the Treasury had spoken? Did the Committee of Ways and Means really suppose that within two years the industry of this country could adapt itself to the provisions of such a bill as that now reported? Did not every man, at all conversant with the practical operation of the existing system, know that to call this a gradual reduction, was a perversion of the terms?

Was two years a period in which the industry of the country could change its entire direction, and resort to new channels? or in which the people could resort to new and untried employments for their livelihood? No, for almost all beneficial purposes connected with the protection of interests, which had grown up under the faith of the legislation of Congress,

a delay of two years would be no better than the immediate operation of the bill on the whole amount of duties proposed to be reduced, sweeping them away at a blow. He would tell the committee all the good that such a delay would occasion: it allowed those who had on hand extensive stocks, time to put that stock into a manufactured form for sale. But as to those who were the real working men of the country, the bill operated to throw them completely out of employment, without time to prepare themselves for such a radical change. He repeated the position (and he did so with all respect for the committee who had introduced the bill) that, to profess the principle of gradual reduction, and, at the same time to cut down the whole protective system within two years, was nothing but mockery. Such a bill was substantially no better than an instantaneous abolition of the whole amount of protective duties; and this was one feature of the bill which rendered it so peculiarly obnoxious to those whose interests he more immediately represented on that floor.

But, whether gradual in its operation or not, whether immediate or more remote, whether carrying out the recommendations of those opposed to the whole system or not, it was reported as a bill calculated to bring down the revenue of the country so as "to meet the exigencies of an economical but efficient administration."

THURSDAY, JANUARY 10.

The Tariff—Mr. Verplanck's Bill.

The House then went into Committee of the Whole on the State of the Union, upon the bill to reduce and otherwise alter the duties on imports—Mr. WAYNE in the chair.

Mr. INGERSOLL, of Connecticut, rose and said that the peculiar situation in which, as one of the Committee of Ways and Means, it had been his fortune, perhaps misfortune, to be placed, seemed to require that he should, in this early stage of the debate, give the reasons why he had not been able to assent to the present bill, and the report which accompanies it. This is due to myself (said Mr. I.) no less than to my highly respected associates of the committee, from whom I have been obliged to differ. As was said on a former occasion, and in reference to another report, by the gentleman (Mr. VERPLANCK) who, as chairman of the committee, reported this bill, my position in regard to it, is "singular and solitary." Yes, I say it more in sorrow than in anger, it is solitary indeed.

What would be the precise effect of this measure, if adopted, on the revenue of the country, no one could with safety predict. But, as I wish to avoid as much as possible all debatable grounds, I shall take it for granted, for the purpose of this inquiry at least, that the committee are right in saying that the receipts from the customs, under their bill, would be reduced to something over thirteen millions of

dollars. We are asked to make arrangements now for large reductions, because, in the opinion of the committee, our present receipts, unless we promptly interpose, will roll up and retain a dangerous surplus in the treasury, "a needless burden upon the people, a tax falling directly or indirectly upon the land and labor of the country, certainly injurious in its effects, and probably unequal, enriching the treasury only to divide and distract our public councils, by tempting to expenditures of doubtful constitutional right or inconsistent with the simplicity of republican institutions, staining their purity, and hazarding their permanency." If, Mr. Chairman, there is one individual on this floor who is in favor of accumulating such a surplus in the treasury, for the pleasure of scrambling for the spoils, I wish it to be distinctly understood that it is not the humble individual who now addresses you. No, sir; the sentiments held by me on that subject, were embodied in a report presented at the last session, and which was also signed by my friend from Pennsylvania, (Mr. GILMORE,) and, by the principles there expressed, I shall steadfastly abide, let those principles lead me where they may.

There are some points, then, in which I am happy to agree with the other members of the committee. I agree with them that we should not accumulate a useless surplus in the public treasury; and that, at a proper time, and in a proper manner, the revenues should be adapted to the strict wants of the Government, if found to exceed those wants. More than this, it may be admitted that, after the payment of our debts, fifteen millions, the sum estimated by the Secretary of the Treasury, and sanctioned by my associates of the committee, should be, in ordinary times, sufficient to meet the current expenses.

Having gone thus far with the other members of the committee, we have now reached the point at which I am sorry to part with them. In saying, as I do, that this is not the proper time to change the established revenue system of the country, I have no allusion to what is taking place elsewhere. I come to this part of the subject, in the way in which it was put to me, as a strictly financial, not a political question. This is not the proper time, because you will, in my opinion, have need for every dollar you will receive under the present system of duties for the two years to come, at least. In the report put forth, it is taken for granted that now is the time, and now the hour, most fit and proper to reduce the treasury receipts; and this the committee are attempting to accomplish by their bill, lest the dreaded surplus should overtake us, if we delay it a little longer. This is not the first time that we have heard about "a surplus in the treasury," and the embarrassments it might produce in our devising ways and means to get rid of it. Why, sir, I have heard about it, and read about it, ever since I was old enough to read the news-

papers, but have never been able to find it, except in the imagination, for the last quarter of a century. I remember reading about it as far back as the administration of Mr. Jefferson; the evil had been anticipated at that day, and Congress had been called upon to devise some plan for disposing of it. The profound statesman (Mr. Jefferson) then at the head of the Government, advised Congress, that when a surplus should really be found in the treasury, it should be expended in works of internal improvement, either under the present constitutional powers, or under such new grants as might be imparted to the federal compact. But we have grown wiser than Mr. Jefferson, or think we have. No one is now so unfashionable as to propose that the surplus revenues should be so used; in our estimate of fifteen millions we do not mean to have any of it distributed in that way. And lest we should happen to have an excess, we are perplexed as to the mode of avoiding it. It was the burden of complaint at the last session; it met us during the recess, in staring capitals, in the publications of the day; and since we have been here this winter, it has been rung and echoed in our ears, in all the sameness of the cuckoo's note—"surplus—surplus—surplus!" Gentlemen will insist upon it that the body politic is in danger of immediate death from plethory, and the political doctors who gather around in consultation, instead of tapping a vein, are for cutting the arteries. Let me advise them to stay their hand before they use the knife thus freely.

Mr. CRAWFORD said: What does the bill of the honorable Chairman of the Committee of Ways and Means (Mr. VERPLANCK) propose? To reduce the duties on the importation of foreign merchandise generally, to the scale of 1816, and, in some instances, below it. I desire the members of this committee to pause, and reflect. The most extensive operation of this Government is upon property, and the wider the range of our laws, the more studious, the more cautious should we be to do no act which may be detrimental to the great interests committed to our charge. We are placed here as trustees, to the extent of the powers confided, whose solemn duty it is to advance, by all the means we have, the prosperity of this nation; so to shape the action of the Government that the citizen may receive no injury, and that, while we do justice to all, we sacrifice none. Will we be fulfilling this high trust by rendering valueless two hundred and fifty to three hundred millions of property for at no less sum are the manufacturing establishments of this country computed. Sir, I know of no measure more likely to be extensively ruinous—irreparably ruinous—to our great and leading interests, running through all the ramifications of society. If you break down a large establishment of iron, or wool, or cotton, you prostrate not its owner alone, but you reach every mechanic, every farmer, every laborer, in his

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Reduction of the Tariff—Mr. Verplanck's Bill.

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neighborhood. If it was wise and statesmanlike in 1816 to regulate your duties, with a view to your existing manufactories, amounting then probably to not more than thirty millions of dollars, (though I have no means of ascertaining accurately,) can it be judicious in 1832 to throw out of consideration interests ten times as great? I speak not now of the amount of revenue; that shall be thought of presently.

To see the full operation of the proposed reduction, it is all-important that we should bear in mind what the duties have been on the various articles to be affected by it. I ask the members of this committee to recur to the legislation on this subject, and contrast the various enactments with the bill submitted. By the law of 1816, you imposed a duty on woollen manufactures generally of twenty-five per cent. until the 30th June, 1819, and afterwards of twenty per cent.; by that of 1824, a duty of thirty per cent. until 1825, and subsequently thirty-three and one-third per cent.; by the provisions of 1828, forty-five per cent. on cloths under four dollars in price, and fifty per cent. on all exceeding that value; and the law of 1832 imposed fifty per cent. *ad valorem*, and abolished, on this article, the system of minimums. It will be seen, at once, that the measure now under debate, reaches by a single bound, the regulation adopted seventeen years ago; for I regard as of no consequence the retention of forty per cent. until March, 1834, and of thirty per cent. until 1835. You had as well seal their fate at once. It is like the gradual extinction of human life, and, on a level of kindness, with the lopping off a man's legs and arms before you strike a vital part. How are hundreds of millions to be arranged in two years to prevent the crash which the provision seems to admit must follow if the change were immediate? On cottons, the change is still more to be regretted; for it will be soon perceived that it sweeps from under their feet the ground upon which those concerned stood in 1816, and leaves them in an infinitely worse situation. By the law of that year, foreign cottons paid twenty-five per cent. for three years, with a provision that if they cost less than twenty-five cents per yard, they were to be rated as worth that sum, and afterwards a duty of twenty per cent. By the regulation of 1824, they were charged with a duty of twenty-five per cent. with an increased minimum, from which the enactment of the last session did not materially vary, and the law of 1828 did not touch cottons. I request gentlemen to look for a moment seriously at the change they are about to effect, and inquire if they have examined narrowly into the certainly destructive consequences which must follow if this project be consummated. You have, heretofore, deemed a certain degree of protection necessary, not to the profitable and thrifty condition of your cotton manufactures, but to their existence; and of that duty so deemed by the very body I am addressing, and so deemed not six

months ago, it is now sought to take away three-fourths. Can any pursuit or occupation bear such an application of the retrenching knife? I believe there is no mistake in my proposition. The present duty on cottons, under and not exceeding thirty cents the square yard, is seven cents and one-half; on those over that value, eight and three fourth-cents. What is the rate provided by the bill? The duty of 1816, which was five cents per yard? No, sir. But to bring down the duty to twenty per cent. *ad valorem*, abolishing the minimum that was adopted in that year, which will leave you about one-fourth the present duty. On articles costing ten cents the square yard, two cents is charged; on those of the value of eight cents, one cent and six mills; and on those priced at six cents, one cent and two mills. The finest will not cost in England, above sixteen cents; and as the coarsest are most used, the probable average value will be about ten cents, and the whole range of duty about two cents the square yard. Those manufactures which you have invited into existence, and reared in a hot-bed if you please, you now seem disposed to abandon to their fate. Is this, can it be, right? At the last session, as an inducement to the passage of the pending bill, it was said it would give permanency to the system; and, to my own knowledge, some gentlemen then, and not until then, regarded the policy of the Government as settled, and embarked their means in this species of property.

The honorable chairman of the Committee of Ways and Means (Mr. VERPLANCK) informed this committee that this bill was framed, with the view to the production of eleven millions of dollars from customs, and that the foundation of his calculation was the importation of last year. I do not think any just calculations can be made upon the imports of any one year, more than that an increase of duty, judging from experience, is followed by an increase of revenue; though I believe that an increase of imports will be the consequence of a diminution of duty, and that the revenue will be enlarged, instead of lessened. The Europeans who find a market in this country, are so situated that they must export, to a certain extent, under almost any circumstances—less, however, when the duties are high—and the increased quantity, at the lowest rate, will often pour more money into the treasury than when the duties are higher. And I believe it is morally certain that it will always do it, so long as you vibrate between two medium points; say, in reference to the present inquiry, between twenty and forty per cent. It is true, you may reach a point so low, that more than a certain amount of revenue cannot be raised, or so high as to amount to a prohibition; and either way you will not be burdened by money. I dread the disclosure of the fact, which the operation of this bill, if enacted into a law, will probably make, that the revenue is larger, instead of smaller; and then will come the necessity, as it will be

called, of falling to this minimum duty, to prevent an accumulation of money into the treasury. As proof of the correctness of these remarks, look at the product of your custom-house at various periods, and under different rates of duty; in 1826, your revenue from customs was greater than it has been at any time since, except the two last years, although the law of 1828 was passed increasing greatly your imposts.

In the year first named, it amounted to \$23,341,331 77; in the year 1828, (the law of that year did not go into operation until the first of September, and could have little or no effect, as the annual treasury accounts are made up to the 30th September,) to \$23,205,523 64; in 1829, to \$22,681,965 91; in 1830, to \$21,922,391 39; and, even in the year 1831, it exceeded the produce of 1826 by only \$883,110. The additional imports of the two last years have been made, I imagine, with a view to aid the extinguishment of the public debt and other causes, in effecting a reduction of the tariff. Circumstances will vary your revenue; I mean the circumstances of your citizens, of the commercial world, and of all the world, more than your enactments. Look at your public income from 1816 to 1821: from customs you derived in 1816, \$27,569,769 71; in 1817, \$17,547,540 89; in 1818, \$21,828,451 48; in 1819, \$17,116,702 96; in 1820, \$12,449,556 15, and in 1821, \$13,400,447 15; reducing your treasury so low, that by an act of Congress of the 3d March, 1821, a loan of five millions of dollars was authorized "to be applied, in addition to the moneys now (then) in the treasury, or which may be received thereon from other sources during the present (then) year, to defray any of the public expenses which are, or may be, authorized by law;" and yet, during all this time, the duties (except some small additions, and, it is a remarkable fact, that the revenue was lowest after those deductions were made), remained the same, while your revenue varied more than fourteen millions, and at last sunk so low as to oblige you to borrow. Examine your treasury books throughout, and you will find everywhere evidence that a diminution of duty is by no means certainly, or, I think, usually followed by a reduction of revenue; on the contrary, I believe it will, in the circumstances of this country and Great Britain, be the cause of an increase of your funds.

FRIDAY, JANUARY 11.

The bill for the relief of General Macomb next coming up for consideration, it was referred to the Committee on Claims.

Florida Claims.

The House went into Committee of the Whole, Mr. HOFFMAN in the chair, on the bill for the relief of certain inhabitants of East Florida.

Mr. TAYLOR, of New York, moved to strike out the enacting clause.

Mr. WHITE, of Florida, said, that the nature of the claim set up might be properly understood, he should be obliged to go into a short historical detail of the events and incidents with which they were connected, and the principles of international law on which they are founded.

On the 15th of January, 1811, an act was passed by the two Houses of Congress, in which it is declared "that the United States, under the peculiar circumstances of the existing crisis, cannot, without serious inquietude, see the Floridas pass into the hands of a foreign power;" and "that, under existing circumstances, they will take temporary possession of that territory, and hold it, subject to future negotiations." On the same day another act was approved, giving to the President the authority to occupy, at his discretion, the country east of the river Perdido, with an armed force, on the happening of either two contingencies: 1st. If it shall be rendered up by the local authorities. 2d. If any attempt to occupy it shall be made by a foreign power. This last act makes a large appropriation for effecting its provisions, and invests the President with a legislative authority over the country to be acquired in pursuance thereof. On the 26th of January, 1811, instructions were issued to General Matthews, of Georgia, and to Colonel McKee, of which the laws above cited, were assumed as a basis. (9 vol. *Waitt's S. P.*, p. 41.) It will be seen by the letter of Mr. Monroe, the Secretary of State, that the powers conferred on these commissioners are almost discretionary. It is melancholy to discover in this first document the commencement of all the American aggressions against the provinces of the Floridas; to see the Secretary of State dictating to his agent the quibbles to which he should have recourse, and recommending the first of those baseless promises to be so worded as to deceive the Spanish authorities, who should rely upon them, without being binding upon him who made them. If the Governors will peaceably "surrender the territory they were intrusted to protect, we will pay the debts of the Spanish king to his Spanish subjects." If you are driven to force, "you will exercise a sound discretion in applying the power given with respect to debts, titles to lands, &c., taking care to commit the Government on no point further than may be necessary."

I will not comment on the consistency of promising then to pay the debts of Spain, and refusing now to pay our own to the same creditors. I will say nothing of that morality which seizes on a moment of weakness to invade the province of an ally; which offers a reward to vice, and renders justice as a bribe to treason. I cite this passage to prove "that the operations" of the American Government in the Floridas, had a beginning ominous to just and

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honest claimants. "Commit the Government on no point further than may be necessary." But, sir, here is the important postscript to this preliminary document: "If Governor Folk should obstinately require, and pertinaciously insist, that the stipulation for the redelivery of the province should also include that portion of the country which is situated west of the river Perdido, you are, in yielding to such demand, only to use general words that may, by implication, comprehend that portion of the territory." This doctrine of implication was most beautifully and practically commented upon by the Sultan Mahomet, who, as we are told by Grotius, "upon the taking of Eubœa, cut a person asunder in the middle of his waist, to whom he had made a promise that he would not hurt a hair of his head." I have cited these passages, as well to show the whole uniform tendency of the measures taken and pursued by the United States in her operations in the Floridas, as to prove that Matthews was justified by his instructions in the course he adopted—instructions, as I have said before, mostly discretionary, and seldom specific, unless to dictate a promise that may deceive, without being obligatory to the maker. With such instructions before him, it is not to be wondered at that the acts of Matthews were such as could not be openly justified by our Government. Suffice it to say, that, on the reception of a letter from that officer, dated the 14th of March, he was immediately notified from the Department of State, in a despatch of the 4th of April, "that the measures he had adopted were not authorized by the law of the United States, or the instructions founded on it, under which he had acted," and the powers of which he is divested, are bestowed on Governor Mitchell, of Georgia. The Governor is directed to surrender Fernandina, &c., on terms, viz: that the inhabitants should be protected from the vengeance of the Spanish authorities, and not to withdraw his troops until that security is guaranteed. "You are to report to the Government the result of your conferences with the Spanish authorities, with your opinion of their views, holding, in the mean time, the ground occupied." And so fully was Mitchell persuaded of the intention of the Government, on this point, that he writes expressly to the Secretary of State, "that he knew it had never entered into the contemplation of the Executive to have the troops withdrawn from Florida." "In the measures lately adopted by General Matthews (says Mr. Monroe to Governor Mitchell, 10th, April, 1813,) to take possession, it is probable that much reliance has been placed by the people who acted in it, on the countenance and support of the United States. It will be impossible to expose these people to the resentment of the Spanish authorities," &c.; "you will, however, come to a full understanding with the Spanish Governor on this subject, and not fail to obtain from him the most explicit and satisfactory assurances respecting it." From this it

appears, 1st. That, though we disavow the acts of Matthews, we are determined to retain possession of that portion of Spanish territory which he had seized on; and, 2d. That the disavowal does not extend so far as to prevent us from obtaining the most full and perfect indemnity for those who had assisted him, though it does extend to exempt us from all, and every obligation, to make satisfaction to those who had suffered by his acts; in other words, the acts of Matthews, though unauthorized, are obligatory on us to protect those who were deceived by him, but not to indemnify those who were injured by him. An unauthorized adventurer, holding an American commission, at the head of American troops, marches into a neutral country and lays it waste; his acts are disavowed by the Government, but the Government is bound to protect those who joined him, relying on their support against the vengeance of their offended laws. But he who resists their advances, acting as they were against the laws of Spain, and the force of treaties; he who resists, and is ruined, can demand no satisfaction. "The United States are only responsible for their own acts—and this is an act of Matthews. True, if you have been a wrong-doer with him, we will see that no power can harm you: thus far are we bound; but if you have been injured by him who bears our commission, and commands our troops, or by his associates who we protect, we cannot remunerate you; we are not bound by the acts of Matthews." By the laws of nations he is deemed a principal offender "who is guilty of certain acts of negligence to prevent them, as well as by actual commission; that urges to the commission of it; that gives all possible consent; that aids, abets, or in any shape is a partner in the perpetration of it." (Gro. B. C. 17, 5, 6.) Vattel ranks all as associates "who are really united in a warlike association with our enemy; who make a common cause with him." (B. 3, 6.) It is idle to quote passages of law on a point as plain as this is. If a nation would disavow the acts of her officer, she must punish the offender; she must cause him to make satisfaction if he is able, and if not, she must do it for him. "Sovereign princes are answerable for their neglect, if they use not all the means within their power for suppressing piracy and robbery." (Gro. 2, 17, 20.) It even frequently happens that the injury is done by minor persons, without their sovereign having any share in it; and, on these occasions, it is natural to presume that he will not refuse us a just satisfaction. When some petty officers, not long since, violated the territories of Savoy, in order to carry off from thence a noted smuggling chief, the King of Sardinia caused his complaint to be laid before the King of France, and Louis XVI. thought it no degradation to his greatness to send an ambassador extraordinary to give satisfaction for this violence. (Vattel, B. 2. C. 18, 8, 338; see further on this subject, Vattel, B. 2. C. 6. Sec. 76, 77, and 78; same author, B. 4, 7, 84, and Gro. B. 2,

C. 18, § 4.) It is idle, then, to disavow responsibility. The injury is the act of our troops under our own officer. We retain the possession of the country occupied; we protect those who aided us—subjects, patriots, and all; and the law is everywhere recognized in the books, that, if we protect the wrong-doers, we are responsible for the wrongs done.

Whilst our troops were thus sustained in a foreign territory, whose inhabitants, using every effort of which they were capable, to repel an invasion which our relation with the mother country rendered more unjust and oppressive, it was to be expected that much violence should be used on both sides; that much oppression of persons and destruction of private property should result. In this individual instance, it is believed that the waste of private property was wanton and extensive. The letter of Colonel Smith uses the strongest language to show the ruin following in the train of our armies: "The inhabitants have all abandoned their houses and as much of their movables as they could not carry with them." And further, "the province will soon become a desert." And the investigations had before the courts in that territory, in pursuance of an act of Congress, approved 3d March, 1823, prove that the inhabitants of East Florida were driven from their homes by the American soldiery; that their houses, farms, and orange-groves were wasted; that their stock was destroyed, and their slaves, to a large amount, were enticed or forced away, and many driven to seek protection amongst the Indian tribes, from whom they have never been reclaimed. Such are the facts in the case of the inhabitants of East Florida. These sufferers are now no longer foreign subjects. They have now no separate Government to which to appeal for a redress of grievances. They had fondly hoped, that when their impotent master had transferred them over to a free and growing republic, that a full adjustment of their claims, a full security for payment and satisfaction, was guaranteed by the treaty of cession: and they might still more fondly have hoped, that, if any doubt could arise in the construction of a clause so remedial and so just, that our Government would allow some little weight to the equity of the claim; that we would not construe an ambiguous promise to pay, "a promise by implication," into a total release from an obligation so cogent and so binding before the promise was made; but, alas! they are deceived. Two succeeding administrations have construed the treaty so as to close against them the door of hope. Thus, sir, are these people injured and deceived; ruined by our arms when Spanish subjects, transferred to us their debtors, they have none to intercede for them. The transfer, from which they had hoped so much, has betrayed them; because, in the language of poetry, "it has held the word of promise to the ear, and broke it to the hope." It has made us their creditors by our wrong, and then closed against them the avenues of redress, by pur-

chasing themselves and their territory from a master who would have vindicated their claims to justice.

These, sir, are the facts upon which the inhabitants of East Florida rest their claims to indemnity for the spoliation of the American army.

MONDAY, January 14.

The Tariff Bill—Reduction of Duties—Mr. Verplanck's Bill.

The House again went into Committee of the Whole, Mr. WAYNE in the chair, and resumed the discussion of the Tariff bill.

Mr. ELLSWORTH, of Connecticut, rose. He said that when the honorable chairman of the Committee of Ways and Means had introduced this bill into the House, he had accompanied it with a few remarks of a general character, all of which were very pertinent and proper; but, since that time, the committee had not been favored with the views of any one gentleman, from any part of the country, in favor of the bill; and, if a judgment was to be formed from what had taken place, thus far, there was reason to apprehend that neither they nor the country, were to be favored with any new light, or any new facts, or considerations on which the House was pressed to pass so very extraordinary and wholly unexpected a measure.

He regretted this the more, the more he looked into the bill, and reflected on the principles it contained and the consequences likely to follow it. Congress had never legislated on a measure which, if adopted, would tell more in our future history. He repeated it, that such a bill should have been introduced, and an attempt made to force it through the House, without one word being said by those who were in favor of its passage, was most unexpected indeed. So soon as this bill should have passed both Houses of Congress, and received the Executive signature, millions of property which had been invested in establishments that had grown up under the sanction, and on the good faith of the Government—property, not of the "sumptuous manufacturer" merely, (as he is called in the South,) but, of the working, laborious, common people; the laboring community would be deprived of its value, and all the thousands, yes, the millions of these laborious citizens, would find their condition in one moment greatly changed. The rich would become poor, and the poor idle and wretched. Thus far they had lived under a Government of some degree of uniformity, and had calculated, as they had reason to calculate, that that uniformity would, to a certain extent, be preserved; but now they would, in one moment, find its policy reversed, and themselves reduced to the utmost distress. He had been told by gentlemen out of the House, he had not heard it from any in the House, that the people of the South were looking with anxiety for this bill. He did not

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doubt such was the fact. But gentlemen ought not to forget that it was not the South alone, but the entire population of his portion of the country, who were looking to the fate of the bill with the most intense anxiety; and he did not hesitate to declare there, in his place, that if this bill should ever become a law, it would prove the winding-sheet of New England.

Standing there to speak the language of his constituents, the first remark he should make upon the measure proposed, was, that it was exceedingly premature and hasty. He asked gentlemen who pressed a bill like this, whether the bill itself had yet so much as reached all their constituents? They must answer, no. A bill lowering duties of itself six millions, and going into operation within forty days, and, together with the reductions made by the tariff act of the last session, proposing to reduce the revenue at one blow, from twenty-five millions of dollars to twelve millions and a half; a bill of such momentous consequence to every portion of the country; a bill containing principles which subverted the entire policy of the country, was pressed to its passage, in sullen silence, before it had even been seen and examined by one-half of the American people. When that bill should have reached them, what did gentlemen suppose would be their answer? He would make his appeal to the representatives of that great State which had taken the lead in the school of protective policy: has Pennsylvania said the tariff needs to be revised? Let her representatives speak, if it be so. And he asked, what had been heard from the "empire State," as it had justly been denominated? Had any voice come from New York indicative that the country desired such a measure as this? Had any voice been heard from New England? Not a breath had reached that House, declaring such was the people's will. A deep and universal alarm was beginning to pervade New England; nor would the voice of approbation come, wait ever so long. He feared lest one portion of the American people, who had been forced into their present pursuits by the votes of the South, and who had ever since been led on from step to step, from tariff to tariff, by that House, when they learned the measure that was preparing for them, would look upon their fields and their factories with sorrow, and learn to hate a Government so fickle and so faithless. He feared that, should this bill pass into a law, the consequence would be, not only distress and heart-burnings, but, in the end, a settled hatred to the Government; a hatred far beyond any thing that had been felt in the South.

But he would now proceed to that which, after all, was the real cause of this bill. He meant the discontents in the South. He hoped that his honorable friend, (Mr. McDUFFIE,) for such he esteemed him, who so ably represented the views of the South, would not charge him with any disrespect. But, might he not say, that if any member of the House should be

asked out of the House what was the cause which had produced such a bill, would he not say, the discontents in South Carolina? No man, woman, or child, could doubt the fact.

In relation to this matter, the first question he should ask was this: Were they not bound, in endeavoring to relieve the people from the burden of taxation, to see that they did not merely change the scene of the discontent? It was known to all, that during the late war, very deep discontent had existed in one quarter of the Union in relation to the General Government. He had the authority of a gentleman from Georgia, for saying, that the country was near revolution. But let the House, while it was endeavoring to appease his friends at the South be cautious that they did not, as he had said, merely change the scene. He thought there was no just cause for demanding from the North so great a sacrifice. The first question asked of him by his constituents would be, Will South Carolina be any better off when the tariff is annihilated? He feared he should not be able to give an answer such as should be satisfactory to the people of South Carolina. It was very important that the people of the North should be convinced that there existed some real grievance, for the removal of which they were called on to make so great a sacrifice. Nothing else would ever induce them to forego the advantages they now enjoyed.

Mr. BRIGES of Massachusetts said: I need not say to you, Mr. Chairman, that the State of Massachusetts is deeply interested in the tariff. The people of the district which I have the honor to represent, have a capital of more than two millions of dollars dependent, in a great measure, upon the fate of the bill on your table. I shall vote against the bill, and the facts already named constitute my apology for throwing myself upon the indulgence of the committee, long enough to state my reasons for that vote.

Sir, at the last session of this Congress, a law was passed upon this identical subject, after a protracted and full discussion. It was carried by an unusually large majority of both Houses of Congress, and received the prompt sanction of the Executive. It was passed as a measure of peace and conciliation. That law had not yet taken effect, and its operation upon the revenue, or upon the great interests of the country, can only be known by experiment. It is certain, however, that under it, a large amount of revenue will be reduced, and it may produce a very sensible effect upon some of the manufacturing interests. The most strenuous opposers of the tariff, at the last session, professed a willingness to reduce the revenue by a cautious and gradual process, so as not suddenly to ruin the manufactures. Where *now* is the necessity of departing from that principle of action, by demolishing the law *then* passed, before its effects can be known? It would be an unheard of course of legislation, in this or any other country, for the same men

to repeal a law upon a subject which involved the vital interests of the country, and which they had passed upon the most careful and deliberate consideration, before it should have gone into operation, and when the circumstances of the country had undergone no change demanding a precipitate repeal or alteration. After so much time had been spent at the last session, and a bill passed upon the avowed principle of compromise and concession, the people did not expect that the question would be again agitated at this session, before they could see and understand the bearing and effect of the law then passed.

The committee who recommend this measure, urge, as a reason for its adoption, that the revenue must be reduced to the wants of the Government. I readily concede this point. I trust all will admit, that after the national debt shall have been paid off, the amount of revenue to be raised must be limited to the sum required to defray the ordinary expenses of the Government, and to meet such authorized constitutional expenditures, as shall be necessary "to provide for the common defence, and promote the general welfare" of the nation. But, sir, the precise amount which would be required for these objects, and the particular sources from which it should be raised, are grave and important questions, which, under the present condition of the country, demand grave and deliberate investigation.

If the entire revenue is to be raised from import duties alone, justice requires that it should be drawn in equal proportions from the people of the different States, and the different sections of the country. But how shall this be done? It by no means follows, than an equal rate of duty upon all the imported articles, would produce this result. It may happen that the same number of people in one State, from their habits, business, or climate, consume a much larger amount of imported articles, than the same number of people in other States, and thus made to contribute more than their just proportion of the public revenue.

On the contrary, it might be found upon full and careful examination, that a duty upon a comparatively few articles of importation, would, by reason of the generality of their use in all parts of the country, afford the necessary revenue, and make a just and equal distribution of taxes among the people of the several States. If a system could be devised, by which a sufficient amount could be raised by a fair and equitable distribution of the duties to be paid, and, at the same time, preserve and sustain the great and varied interests of the country, I am not able to discover what reasonable objection could be interposed against its adoption. Though the practical operation of such a system might be more beneficial to one portion of the country than to another, yet if it operated no injury to that other portion, and was uniform and impartial in the contributions which it would draw from every part, it would be just, and ought

to be satisfactory. To enable us to carry these principles into operation, it is important to know, as near as may be, what amount of imported dutiable articles are consumed in the different States of this Union. In the final adjustment of the tariff to the revenue standard, this essential information cannot be dispensed with without the hazard of doing great injustice somewhere. This knowledge, so indispensable to right action upon the subject under discussion, is not within our reach, and cannot be during the present session. Our treasury is now empty; the national debt is not yet extinguished; the amount of revenue which may be required for the current, and the coming year, cannot be precisely ascertained; and as the officer in the financial department of the Government does not call for an immediate reduction of the duties, the passage of the bill, at the present session, would seem to me to be an act of precipitant and hazardous legislation. The committee present their plan as a permanent revenue measure. This consideration heightens the importance of mature deliberation before we settle down upon it.

Mr. Chairman: The bill on your table, under the form of a simple revenue measure, proposes to change the great policy of this Government. Is this policy one which has suddenly started into life? Is it, as has frequently been alleged upon this floor, the creation of a tyrannical and reckless majority, impelled to action by motives of selfish sordidness, regardless of the interests, and trampling upon the rights of the minority? No, sir, it claims a higher origin, a nobler purpose.

The policy of developing and bringing forth the rich, and exhaustless resources of our extended country, by fostering and protecting domestic manufactures, has engaged the anxious and continued attention of this Government from the adoption of the constitution. This position is maintained by a reference to the course of legislation, the reports from the Treasury Department, and the uniform tenor of Executive messages from the time of Washington to the present day. And, sir, I shall be much disappointed if it does not turn out, upon examination, that it has been the favorite scheme of the great leading statesmen of the South.

I will not consume the time of the committee by talking about the second act of this Government, passed on the 20th July, 1789, the very preamble of which declares it necessary to lay duties "for the encouragement and protection of manufactures."

In his last message delivered to Congress in December, 1796, President Washington says: "Congress have repeatedly, and not without success, directed their attention to the encouragement of manufactures." "The object is of too much consequence not to ensure a continuance of their efforts in any way which shall appear eligible."

In relation to the same object, President Jefferson, in his closing message, communicated

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in November, 1808, has the following remarks: "The situation into which we have been thus forced, has impelled us to apply a portion of our industry and capital to internal manufactures and improvements. The extent of this conversion is daily increasing, and little doubt remains that the establishments formed and forming, will, under the auspices of cheaper materials and subsistence, the freedom of labor from taxation with us, and of protecting duties, and prohibitions, become permanent!" Protecting duties and prohibitions! Yes, Mr. Chairman, in 1808, Mr. Jefferson, the President of the United States, the great republican leader, the strict and able expounder of the constitution, the highest authority of political orthodoxy, of the present day, in one quarter of this Union, could officially speak of rendering manufactures permanent by protecting duties and prohibitions, without lighting the torch of civil discord, or shaking the integrity of the Union. But now, sir, the name of this great man is relied on by those who profess to be his true followers, to show that laws which create protecting duties, "are plain, palpable, and dangerous violations of the constitution," and that the States which oppose them, have a right, if not to nullify, to recede from the Union, if they are not repealed.

Great efforts were made by the leading republicans of that day, to give popularity to the plan of building up domestic manufactures. The prominent newspapers of Virginia, and of the South led the van, and urged on their followers in the patriotic service. The committee will recollect the numerous extracts to show the sentiments of Southern men on this subject, read from a volume of the *Richmond Enquirer*, taken from the library of Mr. Jefferson, by the honorable gentleman from Philadelphia, (Mr. SUTHERLAND,) in the course of his very able and eloquent speech at the last session of this Congress. The sentiments, toasts, and resolutions at public dinners, and Fourth of July celebrations, clearly show what, in those days, was the current of public opinion. It was in 1808 that Mr. Jefferson in a letter addressed to his friend Thomas Leiper, Esq., of Philadelphia, in strong terms, spoke of building up domestic manufactures, as the "true republican policy." He said it was the design and policy of "New England federalists" to continue a commercial people, and thus keep up a dependence on foreign nations for a supply of manufactured articles. With an adroitness peculiar to himself, he sought to identify the opposition to his favorite system, with the opposition to the party of which he was the head. New England was then suffering under the restrictive system of the General Government, which bore upon her with peculiar weight and severity. Her people were necessarily and essentially a commercial and navigating people. They were then the stout advocates of those free trade principles which the national legislation afterwards compelled them to give up, and which are now

proclaimed to be so essential to national prosperity in a region, where, then, the domestic policy was declared to be the sure foundation of public prosperity and permanent independence. Sir, impartial history has recorded all these matters, and they will stand out on the future page as subjects of curious speculation to those who shall come after us.

TUESDAY, JANUARY 15.

Distribution of Surplus Revenue.

Mr. STEWART offered the following preamble and resolution, and moved that it be laid upon the table:

Whereas it was declared by the President of the United States, in his message at the opening of the first session of the twenty-first Congress, that, after the extinction of the public debt, it is not probable that any adjustment of the tariff, on principles satisfactory, will, until a remote period, if ever, leave the Government without a considerable surplus in the treasury beyond what may be required for its current services; and that, in his opinion, "the most safe, just, and federal disposition that could be made of the surplus revenue, would be its apportionment among the several States, according to their representation," which recommendations have been since reiterated in subsequent messages from the same high source: And whereas the President has congratulated Congress, at the opening of the present session, upon the near approach of the period referred to, when the public debt will be entirely extinguished, and a considerable surplus remain in the treasury; therefore,

Resolved, That the sum of five millions of dollars (if the surplus revenue shall amount to so much) shall be annually apportioned among the several States, according to their representation; one moiety thereof to be appropriated to works of improvement of a national character, and the other to the purposes of general education; and that the Committee on Roads and Canals be instructed to report a bill accordingly.

Mr. WILDE moved the question of consideration, viz: Will the House now consider the resolution?

Mr. STEWART suggested to the gentleman from Georgia, that the resolution might be suffered to lie upon the table.

Mr. WILDE demanded the question of consideration.

Mr. STEWART inquired of the Chair, if the refusal now to consider would preclude him from moving its consideration hereafter? Being informed that it would not, he said he did not wish the House now to consider the resolution, but that at some future day, after time had been afforded to examine it, he would move for the consideration of the subject.

Mr. WILDE said that, in a crisis like the present, he could not withdraw his motion, though

he regretted not being able to comply with the request of the gentleman from Pennsylvania.

The question of consideration was decided by—Yeas 48, nays 111.

The Tariff Bill—Reduction of Duties.

Mr. CHOATE, of Massachusetts, addressed the committee as follows:

It would be mere affectation in me, sir, to pretend not to see that this bill is introduced because South Carolina has, prospectively, nullified the law which we made *in pari materia*, five months ago. The chairman of the Committee of Ways and Means does not, to be sure, say this in his speech, or in his report; but there is not a man, woman, or child, in the United States, who does not know it, and who would not laugh in your face to hear the contrary asserted. Why, sir, upon the apparent circumstances, who can doubt about it. The tariff of the last session, whatever else might be said against or for it, was no very hasty piece of legislation. A committee of this House, constituted for that very purpose, were three months in framing that bill which was its groundwork. In one form and in one stage or another, the bill was pending before us two or three months longer. It was under actual discussion more, I believe, than one. The public attention had been recently very much drawn to the subject. Conventions had been holden; memorials had been composed; and a vast body of fact and argument had been furnished to us by the sections and interests most opposed and most sensitive upon this policy. After all this, the bill passed with a surprising unanimity through both branches of Congress, and I cannot say that it has not been pretty well received by the people. Certainly, the administration presses have unceasingly declared that it had the approval of all but the ultras on both sides; the manufacturers and the nullifiers.

That tariff has not yet gone into operation. How it may work, therefore, how much revenue it may yield, what effect it may produce upon prices, commerce, manufactures, or the agricultures of the South, how far it may approve itself upon a full experiment to the judgment of our constituents, the American people, upon all these matters, you know absolutely nothing which you did not know when you set your hands to it. Without the examination of a single witness, without the reading or presentation of a single memorial, without a particle of new information, whether of fact or science, on the merits of this business as a question of finance or political economy, the Committee of Ways and Means have struck out at a heat in three weeks, a new tariff, departing fundamentally from the provisions of the last, and overturning, not formally, I concede to the gentleman from Ohio, (Mr. KENNON,) who had just resumed his seat, but substantially overturning the American protective system.

Sir, I repeat it, it is impossible for me to doubt the motive or object of this proceeding,

unexampled in our legislation. Do not deceive yourselves by supposing that the country and the world also will not see clear through it. Let us not shun a fair responsibility on this great occasion. Why not avow it at once, and put yourselves thereupon on the country. South Carolina has nullified your tariffs; and therefore you repeal them. You suppress nullification, and take a statesmanlike pledge and guarantee against any future recurrence by any other State to that happy expedient, by just promptly granting, the first time you have a chance to act on it, all that it demands.

But, sir, I shall consume no time in complaining of the committee for having cast the consideration of this subject again on this Congress. If we can make a better tariff than the last, or rather if we can make a really permanent and good one, without the neglect of weightier matters, I do not think the attitude of South Carolina alone ought to prevent our doing so. While I hold undoubtedly that our main and first business at this session is, to provide for effectually enforcing the law, if in that behalf there is any thing for the Legislature to do, I could wish to improve the law also, if it requires to be, and can be improved.

But this bill is no improvement of the law. Come what may, I shall not assent to it. Some of the principles it proceeds on are well enough; some of the ends it seeks not undesirable. But the honorable chairman will pardon me if I say that, as a whole, it is a great deal too rash, partial, and revolutionary. He will pardon me if I say I see on it some marks of the unwise precipitation of fear, and some of the still more offensive marks of political calculation and combination. Instead, however, sir, of attempting to dissect it minutely, and to display its objectionable details, I have risen only to suggest some more general grounds on which I oppose it, and on which perhaps, the expediency of passing even a far better bill than this in the circumstances, may well be questioned.

There is one view of this great subject of the tariff, in its relation to the times we are approaching, in which the importance of very deliberate action on it, upon the part of the National Legislature, is quite striking. I cannot hope to impress it on others as it has presented itself to my own mind.

We have reached the time, or rather we are within a year or two of the time, when it will become necessary to meet and settle a question in some sense new; a question involving the fate of our existing manufacturing establishments, and perhaps the fate of American manufacturing enterprise. The question is this: Can the tariff be so arranged, that it shall produce no more revenue than the wants of a Government out of debt and wisely administered, indispensably demand; shall incidentally give effectual protection to capital now invested in manufactures, and shall, at the same time, work no sectional injustice to the planting States. Such a tariff alone can be maintained

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in this country. Such a tariff, by the blessing of providence, can be maintained. Such an one can be framed; but time, and an opportunity of calm, thorough, unterrified deliberation, are indispensable to a work so great, and healing, and difficult.

The first requisite of a tariff, which shall meet the exigency of the times is, that it brings down the revenue "to the wants of the Government." A very few words only upon this:

I consider it to be the settled opinion of the country, that the national revenue ought to be restricted to, and measured by, the necessary annual expenditure of the Government, out of debt, and economically administered. The public demand is, I think, that the tariff be so constructed as to yield that amount of revenue, and no more; and if the tariff of the last session shall be found, on a full experiment, to yield more than that, sooner or later it must, of course, be altered. In other words, if fifteen millions a year will administer the Government, fifteen millions are all which we can permanently collect from imposts.

The bill under consideration professes to be an attempt to bring down the revenue to the wants of the Government; and, so far, I have nothing to object to it. How far it may effect its object, or how far it may go beyond its object, is another question. It assumes further, that fifteen millions of dollars will satisfy the annual wants of the Government. Upon this, too, I have nothing to say. But it further proceeds upon the supposition, that, of this sum, two millions and a half will be supplied by the sales of the public lands, and the other twelve millions and a half by the imposts. I submit to the committee, sir, that the imposts ought to be made to contribute from the first, the whole fifteen millions, or whatever be the sum which you decide to raise.

But there is a deeper objection to the bill. Assuming, sir, that a tariff is to be constructed which shall supply from imposts the whole national revenue, and no more than you need for revenue, then the great question is this: Can the principle of an effectual protection of the existing manufacturing establishments be embodied incidentally in such a tariff, without injustice to the planting States? Sir, I believe that it can; and I am wholly against this bill because it makes no attempt to do it.

Look into this bill, and say if these rates of duties are sufficient for the preservation of your leading manufactures? Why, this House has concluded the question. You have framed, this very assembly has once already framed, a tariff of protection. Yes, sir, the law of the last session, enacted after a series of investigations of unexampled minuteness and toil, is the deliberate, recorded, promulgated judgment of the whole National Legislature, that the duties in that law are indispensable to the adequate protection of your investments in manufactures.

Now is there a particle of new evidence, is there one single argument good or bad, old or

new, is there so much as a suggestion from any quarter of this House, that, on point of necessity of that degree of protection which you decided to give last summer, your judgment was erroneous? So erroneous that you may now take off seventy-five per cent. of that protection without fear of the consequences? Sir, we know there is nothing. This bill is not put forward as a protecting tariff. The chairman of the Committee of Ways and Means, has not said on this floor, or in his report, and will not say that he believes this rate of protection is enough. He does not press the measure upon you on that ground. He argues that it will reduce the revenue to twelve and a half millions, and he claims no more for it. No verbal or written testimony has been taken by the committee, and none is furnished to the House. Some manuscripts of matter purporting to be answers of manufacturers to the interrogatories of agents of the Secretary of the Treasury, are said to be in the hands of the public printer; but nobody knows their contents, or attaches any sort of importance to them.

I have heard, in conversation, that the tariff of 1816 gave adequate protection, and that this bill is a return to that tariff. Did we not know last summer what protection the law of 1816 gave, and did we not pronounce it to be wholly inadequate? Besides, sir, this bill is not a return to the provisions of that law. If that were intended, why are the duties on iron carried so much higher? Do you say that the manufactures of iron are essential to the defence of the nation in time of war, and, therefore, deserve to be protected? Very well; but this plainly admits that the law of 1816 does not afford the desired protection. And again; if you take that tariff for your standard, why do you withdraw from the manufacturers of woollens and cottons, the protection of which they enjoyed under it? No, sir, I shall not admit against your vote of five months ago, that these duties will sustain any great branch of the national manufactures. I am estopped by the record, and bow, as I ought, to your own authority. I must take it for this discussion, without pausing to collate this bill with former tariffs, item by item, and without attempting to calculate the exact rate per cent. of the proposed reduction, that the measure goes in its inevitable, and not very remote effect, to disturb and derange the whole manufacturing enterprise of the country, and particularly to break down the great body of the establishments of New England.

Is there any thing in the circumstances of the time which makes all this necessary? Sir, I cannot believe it. I believe you may construct a tariff which shall yield fifteen millions of revenue; effectually protect domestic manufacture; and do injustice to no portion of the country. This is the great problem now proposed to the wisdom of Congress. I beg leave, sir, to say a few words only for the purpose of showing that such a tariff may be made, but

that perhaps new investigations, perhaps new modes of inquiry on the part of Government are necessary to an object so important and so difficult.

I confess, sir, it is not until very recently I have supposed that a tariff, producing so much revenue only as the wants of Government year by year demand, would be resisted by the South, merely because it sought to unite with its main object of revenue, in its selection of articles, and its distribution of duties, the protection of domestic industry. We have heard much about the burden of unnecessary taxation; against wasteful and corrupt expenditures of public money; against plundering the people with one hand, and dealing out the spoils here and there, to this portion of them and that, with the other. These topics are familiar enough in our discussions here and elsewhere; but that which has been somewhat technically called incidental protection, I thought had been spared this general denunciation. I had supposed the sentiments ascribed the other day by the gentleman from Connecticut (Mr. INGERSOLL) to a distinguished Virginian, (Mr. BARBOUR,) expressed the prevailing Southern opinion on this subject. When the tariff was made *bona fide* for revenue, where it was so framed as to produce no more than the necessary revenue for an economical administration of a Government out of debt; where, in its "gross and scope," as a whole, acting as one tax on one people, it drew from them only the proper amount of tax, I had supposed, sir, that such a tariff would not be objected to, merely because in its details it favorably regarded the interests of American manufactures. One thing is certain: the constitutional competence of Congress to make such a tariff has hardly been questioned, I believe, by those who have questioned every thing else. In the address of the convention of the friends of free trade, put forth in the latter part of the year 1831, I find these passages. They occur in the midst of a regular argument against the substantive constitutional power of Congress to make a protecting tariff. "They admit the power of Congress to lay and collect such duties as they deem necessary for the purpose of revenue; and, within those limits, so to arrange these duties as incidentally, and to that extent, to give protection to the manufacturer.

"They deny the right to convert what they denominate the incidental into the principal power, and, transcending the limits of revenue, to impose an additional duty, substantially and exclusively for the purpose of affording that protection."

The writer of an article in the Southern Review, published in August, 1830, a writer who, with zeal and talent maintains the doctrines of nullification, and the want of constitutional power to make a tariff of protection, says: "South Carolina has never contended that, in pursuing *bona fide* the legitimate object of revenue, a bill for this purpose may not be

arranged in such a manner as incidentally to benefit the domestic industry of the country."

Sir, I agree that there is some ambiguity in this language; but it seems to me to admit, in the broadest terms, our constitutional power to make just such a tariff as the times demand; a tariff yielding just enough, and no more, to the treasury, yet so taxing, and so exempting from tax articles imported, as effectually to protect the manufacturing capital and labor of the country.

But, sir, we know now that our friends of the planting States take stronger ground. They now say that, even if the tariff produce only the necessary amount of revenue, it cannot be so constructed as to protect manufactures, according to the Northern opinions on the requisite degree of protection, without injustice to the South. Such a tariff will admit some imports free of duty; it will tax some heavily, others lightly; and this "arrangement of duties" must, as they allege, from the habits of consumption and of production, peculiar to the planting States, act with a sectional injustice and hardship on them.

Now this allegation of the South presents a question of fact of great interest. It has been discussed at former sessions of Congress, with eminent ability on this floor. It is the turning point of the controversy which threatens, not to rend these States asunder, that is an absurd apprehension, but which threatens to prostrate every manufacturing establishment in the country. I do not say that it is capable of being conclusively determined. Perhaps it is a problem which must forever baffle all attempts at solution. But, sir, before this Government shall take for granted this strong and no doubt sincere assertion of its Southern citizens; before it shall doom to destruction the vast interests which itself has warmed into life, upon the supposition that it can protect them no longer without injustice to others, I submit that something ought to be done by the Government, as a Government, through some department, or committee, or board of commissioners, to settle this question of fact. It would be a reproach to politics, to legislation, to science, if it could not be settled by a proper course of inquiry, with some approximation to moral certainty. I know, indeed, something of the obstacles which the passions put in the way of the pursuit of truth. Perhaps Hobbes, if it was he, was not so far in the wrong when he said "that, if their interests required it, people would deny that two and two make four." But, sir, "difficulty is good for man." We are fast approaching a real crisis in the history of our manufactures. We are told we can no longer protect them, and do justice to the South, even if heretofore that was practicable. We cannot put this question aside; we must meet it; and it involves the most momentous domestic controversy which this country was ever engaged in. Sir, the position I take is this: that this House is not prepared to admit—cannot, as a matter

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Reduction of the Tariff—Mr. Verplanck's Bill.

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of justice, and expediency, and honor, admit, without more inquiry, that a tariff, producing fifteen millions of revenue, and effectually protecting domestic manufactures, will operate with any peculiar and sectional injustice and severity on the planting States.

In the first place, before we venture against our recorded acts of the last session to take a matter of so much importance for granted, I say we ought to have before us for inspection, the project of a bill yielding fifteen millions, and so framed as to protect manufactures. No such bill was ever submitted to this Congress. This, from the Ways and Means, that committee tell us, will produce twelve and a half millions only, and it makes no attempt towards effectual protection. The tariff of last session, it is said, will produce twenty millions. What we ought to have, from some committee or some department, for analysis, is a tariff, put together by express instruction of this House in such a manner as to raise a revenue of fifteen millions, without injury to existing investments; and, as far as practicable, without injustice to any distinct section of country. Then, sir, there would be something definite to act upon; there would then be a specific plan of taxation before you, under which some imports would be free; some lightly and some heavily burdened; the articles would be enumerated and the rates fixed. We should know then the terms and conditions of the problem to be solved. We could then subject the planting States to a minute comparison with other States, in regard to their habits of consumption and production, with reference to a given scheme of finance. The question then would be, taking into account the character of the consumption and production which distinguish the two great divisions of the country, which of them, under this precise scale of duties will feel the heaviest burden, or will it fall in just proportion on each? I repeat, sir, the first step towards a proper trial of the question involved in the representation of the South, would seem to me to be to call on the Committee of Manufactures, or of Ways and Means, for a bill of this character. Until we can see, and can dissect such an one, I shall not admit, in deference to any abstract reasonings, however ingenious; to any declamation, however eloquent; to any complaints, however loud or general; that it may not be made to unite all the three requisites which must meet in a just popular, and permanent tariff; that is, that it brings no surplus into the treasury, encourage and save manufacturing investments, and do no local wrong to the South.

But, sir, without waiting for the project of such a tariff, we know, to some extent what it must be; we know, in general, that it will lay a heavier duty on articles coming in competition with our domestic manufactures; and a lighter duty, if any, on articles not coming into competition with them, than the average of a mere uniform *ad valorem* revenue duty. And, now, is this House prepared to admit, without

more inquiry, that such a distribution of duties works any sectional wrong to the planting States?

In considering this question, let the tariff first be regarded as a great indirect tax on consumption paid by consumers. I know that this view of the tariff is narrow and inadequate; it is, however, to a great extent, the true view of it, so far as you look to the burdens only which it imposes. It is a law laying taxes on consumption, which are paid by consumers. The question is, do these taxes fall disproportionately on the South?

In this way of considering the subject, the only ground on which the alleged inequality of this tax, in its operation on the planting States, can be made out, is this: that those States consume a larger value of imported articles paying heavy duties under such a discriminating tariff, in proportion to their whole consumption or ability, than the other States; that they consume a larger value of imported sugar, woollen cloth, cotton cloth, articles and materials of occasional and extra dress, household furniture, mechanic tools, iron, steel, hemp, flax, cordage, chain cables, sail cloth, oil and dyeing materials, and the like, in proportion to their whole consumption, than the other States. Now, do the planting States, in point of fact, consume a larger amount of such articles than the rest of the Union, according to their ability? Sir, I utterly deny it. I assert the direct contrary. I tender an issue, and respectfully pray that the same may be inquired of by the country.

In the first place, sir, it has been alleged on this floor that the planting States do not now, and never did, consume so large a value of all imported dutiable goods, in proportion to their numbers, as the other States. In particular, I recollect, that the gentleman from Rhode Island, (Mr. BURGESS,) in his able speech at the last session, took this position very strongly. In the resolutions which he laid some days since on your table, he reasserts this position. He told us that the records of the treasury and custom-houses will sustain him in it. They will show you, or rather you may collect from them, with reasonable certainty, the whose value of imported dutiable goods consumed year by year in the whole country, and the value of those consumed in the Southern States; the whole amount of duties collected on them all, and the amount collected on the portion consumed in the Southern States. The result of the examination will be, that the complaining States have never paid, from the organization of the Government to this day, an amount of the indirect taxes which have mainly borne the entire national expenditure, in just proportion to their numbers, their whole consumption, and their general ability.

Sir, if the fact be so, it is a most important one. If it be so, that under no tariff, at no time, those States have paid a fair, constitutional proportion of tax, is it certain that under

a protecting tariff of fifteen millions, they will pay more than their proportion? Is this so certain that you will take it for granted, without inquiry, and without trial, and prostrate your manufactures on the assumption?

Sir, in this view, the resolutions for inquiry proposed by the gentleman from Rhode Island, seem to me eminently reasonable and proper. I submit that we should immediately call out all the evidence to this point contained in the treasury and custom-houses; and, in the absence of that higher proof, I shall hold that the gentleman has truly stated to us the result of it.

I have thus far been considering the tariff as an indirect tax on consumption, paid by the consumers of imported dutiable goods. In that way of considering it, I never could comprehend the Southern sectional objection to it. To give color to that objection, it should be shown that the States which urge it, consume a larger value of imports paying the heavy rates of duty, in proportion to their whole consumption, which is always in proportion to ability, than the other States. Not a tittle of evidence, in proof of this position, was ever offered to this or any other Congress. The presumptions are all the other way; we utterly deny the position, and offer to unite in any mode of inquiry which can be suggested to ascertain its truth or falsehood.

It is sometimes said, sir, that the consumer in the planting States pays a tax to the Northern manufacturer. This, like all violently metaphorical and incorrect language, is calculated to mislead the mind. It may be honestly, but never can be safely employed in any reasoning. Closely scrutinized, it means nothing, or nothing to this purpose. It means only that he who (instead of buying a foreign article, paying the price, and reimbursing the duty) buys a domestic article, pays a price perhaps somewhat enhanced, perhaps not at all so, by the circumstance that the imported fabric is charged with a duty. It is delusive and mischievous to call this the payment of a tax. The article has never borne one; the vender paid none; the buyer reimbursed none. So far from this, he who substitutes the domestic for the foreign fabric, *pro tanto*, evades the tax. If, then, you buy of the Northern manufacturer, you diminish your contribution to the public burden; if you buy nothing of him, you still pay no more than your share. On what ground, then, do you complain of a protecting tariff as an indirect tax? You demand, instead of it, a tariff laying an uniform *ad valorem* duty on all imports. Well, why? You see that you do not now contribute more than your proportion of indirect tax to the federal treasury. Would you contribute less?

Do you say, however, that the Southern consumer of domestic manufactures pays to the manufacturer a price enhanced by the imposition of duties on the similar imported manufacture; and that he thus bears a burden, though he does not pay a tax? I answer, first, that if the price is so enhanced, it is enhanced as well

to the Northern as to the Southern consumer; there is nothing sectional in the alleged grievance. I say, further, that all the leading American manufactures are, all things considered, rapidly and successfully establishing themselves; that the time is speedily coming when a protecting duty will be unnecessary, or rather will not be felt at all by the consumer in the price of articles; and that, therefore, within the sensible and temperate doctrine of Alexander Hamilton, and even of Mr. Gallatin, as expressed in the memorial of the free trade convention, presented to this Congress at its last session, the present temporary inconvenience ought to be submitted to by the individual, for the sake of that ultimate and certain compensation, a diversified, vigorous, and national manufacturing industry.

I submit, therefore, sir, upon the whole, that we should not pass this bill, because it assumes that a tariff producing only the necessary revenue, cannot be constructed to give effectual protection to manufactures without injustice to the South; a position which I deny; and which, let me say, we cannot admit consistently with our own solemn responsibilities to our constituents, to the nation, to that tribunal "at which nations themselves must one day answer."

Mr. Chairman: There is one more general reason why this House should not now pass this bill, or any bill at all resembling it. That is a fatally bad measure in itself, that it disturbs and endangers all the manufacturing investments of the country, and sacrifices especially those of New England. This, sir, indeed, is enough to decide my vote. But if it were not quite so palpably and radically bad, I should hope it would be promptly rejected. Sir, the actual motives on which gentleman will perform the duty which this occasion devolves on them, will be various and secret, and all deserving respect. By me they shall not be impeached or questioned. Some, undoubtedly, will vote for the bill upon a consistent and avowed and settled hostility to the protective system. Some, perhaps, because their interests are spared, and those only of their neighbors and allies are sacrificed. Some, again, upon an honest apprehension for the integrity of the Union. But, sir, the country, history, will stamp this proceeding as a concession to the sovereignty of South Carolina.

There is but one ground on which you can account for the vote you give for this bill, and it is, that South Carolina, has nullified every existing tariff. But you deny her right to nullify the law; and you agree with the President; you agree with the people speaking through their local Governments, their primary assemblies, and the press, as with a voice of thunder, that she must admit, though she were the fairest and dearest of the whole sisterhood of the States. You propose, then, to abandon a policy, sixteen, or rather forty years old; sanctioned by every President and every Congress; by the acquiescence of a large constitutional majority

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of the people; by a long, splendid, and robust national prosperity; a policy to which, five months ago, you gave your sanction; to abandon it without inquiry, without instruction from your constituents, yet against their known interests and presumed will; to abandon it, not to justice, for you do not believe that justice demands it; not in deference to the opposition of a respectable constitutional minority, for that you have all along thought it your duty to disregard; but in deference to this strange, half-peaceable, half-forcible, wholly unconstitutional interposition of a single State!

Sir, it is for those, if any such there are, who, out of this House, are pressing this bill along, from any motive of political ambition, to consider how it may affect the chances of public men for high office, thus to make nullification a triumphant and recognized part of our already sufficiently complicated system. It is for us, the members of this House, who believe "that the preservation of the General Government, in its whole constitutional vigor, is the sheet-anchor of our peace at home and safety abroad," and that "absolute acquiescence in the decision of the majority is the vital principle of republics, from which there is no appeal but to force, the vital principle and immediate parent of despotism:" It is for us to pause long and anxiously before we do any thing to establish the precedent, fraught with all unimaginable and immitigable evil, that a small majority of a single State, whether of the fourth class, or the first, shall make the laws of this Union. Sir, in this view, our situation is undoubtedly one of interest and responsibility. Thank God, however, our duty is as plain as it is important. Sir, these unauthorized risings against the law, I will not call them what the law calls them, revolts, rebellions, treason, are among, I do not say the ordinary, but they are among the inevitable and not unfrequent perils which menace all human Governments. Remember, they are the same under our system that they are under every other. Our federal constitution, and our separation into States, may give them force, organization, complexity; but they do not change their nature. Essentially, here, and everywhere else, they are things irreconcilably antagonist to the rightful supremacy of the public will. Here, and everywhere else, there is but one of two alternatives for choice. They must be put down by the Government, or the Government must be put down by them.

Mr. GILMORE, of Pennsylvania said: Great responsibility rests upon the action of this Congress. We have arrived at a critical period in our Government, where one misstep may seal our ruin; a healing policy alone will answer, which I apprehend is contained in the bill under consideration. The bill proposes to reduce the duties to the wants of the Government, and so to arrange these duties as to afford a fair and reasonable protection to those great interests which have grown up under the faith of the

Government. These are my views, and, if accomplished, all will be well.

By a fair and reasonable protection, I do not mean prohibition, neither do I mean an insurance against the fluctuation of the market by an excessive influx; but merely such protection as will counteract foreign regulations, and compensate for the difference in the cost of manufacturing. Is this not fair? Why should more be required, if protection alone is wanted, and when murmurs and discontents exist in the South? They say the operation is unequal; that one branch of industry is taxed to support another, and that they are compelled to pay more than their just proportion as to the equality of duties on the manufacturing and non-manufacturing States. I shall read an extract from the *Federalist*, a book of high authority: "When the demand is equal to the quantity of goods at market, the consumer generally pays the duty; but when the markets happen to be overstocked, a great proportion falls upon the merchant, and sometimes not only exhausts his profits, but breaks in on his capital. I am apt to think that a division of the duty between the seller and the buyer more often happens than is commonly imagined. It is not always possible to raise the price of a commodity in exact proportion to every additional imposition laid upon it. The merchant, especially in a country of small commercial capital, is often under a necessity of keeping prices down, in order to more expeditious sale. The maxim that the consumer is the payer, is so much oftener true than the reverse of the proposition, that it is far more equitable that the duties on imports should go into a common stock, than that they should redound to the exclusive benefit of the importing States. But is it not so generally true, as to render it equitable that these duties should form the only national fund? When they are paid by the merchant, they operate as an additional tax upon the importing States, whose citizens pay their proportion of them in their characters of consumers. In this view, they are productive of inequality among the States; which inequality would be increased with the increased extent of the duties. The confinement of the national revenues to this species of imposts would be attended with inequality from a different cause, between the manufacturing and non-manufacturing States. The States which can go farthest towards the supply of their own wants, by their own manufactures, will not, according to their numbers or wealth, consume so great a proportion of imported articles as those States which are not in the same favorable situation; they could not, therefore, in this mode alone, contribute to the public treasury in a ratio to their abilities.

Sir, I believe we have the power of protection, and I agree as to the expediency, at least so far as can be confined within the limits of a revenue standard.

The first great interest which I shall notice,

requiring protection, is iron. This I place on a footing different from other manufactures. It is the first necessary of civilized life, "and contributes most to the wealth, the comfort, and the improvement of society." It is essential to the independence and defence of a nation. It is a great national object, in which we are all interested. I have no practical experience as to the making of iron; but from the best information I can obtain, I believe the protection proposed by this bill will be sufficient, and in a short time it may be reduced, if not dispensed with entirely. Our beds of ore and banks of coal are inexhaustible. A coking company is formed in this country, and when the application of stone coal is perfectly understood, we can make iron as cheap here as in any part of the world.

In England, in consequence of the encroachments on the forest in the year 1788, the quantity of iron made out of charcoal had dwindled down to thirteen thousand tons per annum. At that time coke was introduced into the blast furnaces, and in less than eight years it increased more than tenfold; and, at this time, they make annually to the amount of eight hundred thousand tons, being more than all the world besides. The honorable gentleman from Connecticut, my colleague on the Committee of Ways and Means, (Mr. INGERSOLL,) if I understood him correctly, seemed to insinuate that my course, in relation to this bill, was influenced by the favor shown to Pennsylvania on iron. Pennsylvania asks but equal justice; she claims no favor nor preference over her sister States. My colleague (Mr. CRAWFORD) thinks iron is not sufficiently protected, and can see no reason when we took the act of 1816, and its supplements of 1818, as the basis of our bill, that we did not put rolled iron at thirty dollars as it stood under the act of 1816. I say in reply, that I believe twenty-four dollars a sufficient protection for rolled iron, and is one step towards justice; the difference between hammered and rolled iron appeared unwarrantable; and even the justice of the discrimination may be doubted, if the expediency should not, as will be seen by the following letter:

[Here Mr. G. read a letter from Mr. Stratford Canning, Minister of Great Britain, to Mr. Adams, Secretary of State, dated Washington, November 26, 1812.]

But I shall proceed to notice the testimony taken before the Committee on Manufactures, in 1828. The following question was proposed to several witnesses, to wit: If wool be the same price here as in England, can the American manufacturer make the fabric as cheap as it is made in England?

[Mr. Gilmore here quoted the written opinions of fifteen American manufacturers sustaining his views.]

Sir, I have no doubt considerable embarrassment will be the consequence of a reduction of

the duties; it is always the case; but this is unavoidable. The national debt being paid off, the people will not submit to taxation or high duties, and suffer money to accumulate in the treasury. Bringing the protection to the revenue standard will give stability and uniformity to the system, and less protection will be required than where the system is shifting and changing. But it is apprehended that the proposed reduction would induce foreign manufacturers to glut the market at a present loss, with the hope of a future gain, by breaking down our establishments. This I consider without foundation, in consequence of the difficulty in dividing the loss among themselves.

The fact is, all the great branches of manufactures are already overdone. England alone could supply the world. The labor-saving machinery used there is equal to the labor of two hundred millions of people. The labor-saving machinery used here is perhaps equal to the labor of four times our present population. It is evident, then, that the production may easily exceed the consumption, because population cannot keep pace. But I shall not enlarge, nor detain the committee longer.

WEDNESDAY, January 16.

South Carolina—Nullification—Secession.

A message was received from the President of the United States, communicating the nullifying ordinance of the South Carolina convention, and other papers relating thereto, together with the President's own views, as to what was proper to be done in the existing posture of the Union in reference to that State.

Mr. WILDE said it was obvious that the message just read was universally felt to be of the most solemn importance. This might be seen in the anxious countenances which surrounded him. We had arrived at a solemn crisis—a crisis of the most extraordinary character. It had, for the first time since the institution of the Government, been announced to Congress by the Chief Magistrate of the United States, that one of the States of the Union had denied the power of our laws. If we persevere in enforcing these laws, she claims the right of withdrawing from the Union. This right she has announced that she will exercise, and will relieve her citizens from the operation of the laws of the United States, peaceably if she may, and with violence if that should become necessary. This was not the ordinary case of enforcing the execution of the laws upon private individuals.

The SPEAKER said, if the gentleman proposed to make any motion, he would be pleased to submit his proposition in writing.

Mr. WILDE said his proposition was, that the message and the accompanying documents be printed; and that the further consideration of the subject be postponed until to-morrow, in order that gentlemen might, after due reflection

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upon this momentous topic, come to its consideration with calmer feelings.

Motion to postpone was negatived.

Mr. AROHER moved to refer the message and documents to the Committee on the Judiciary. The object of the message was to bring to the attention of Congress the necessity for certain laws. If Congress concurred in the views stated, he would put it to the House whether the Judiciary Committee was not the most proper to examine and report upon the subject. He had been surprised at the proposition to refer the message to the Committee of the Whole on the state of the Union. Was that committee competent to digest and prepare the necessary measures? By such a reference every object of reference would be prostrated. The subject would be turned loose upon the wide field of debate only for the purpose of creating excitement. All that was suggested in the message as necessary, was certain additions and amendments to the revenue laws. For the purpose of reporting these additions and amendments, the Judiciary Committee was the most proper. It was not, perhaps, very important whether the reference was to a standing or select committee. Either would fully and speedily accomplish the object desired. But he hoped the reference would not be made to the Committee of the Whole on the state of the Union, unless gentlemen desired to go into a protracted debate without practical result.

Mr. LEWIN said, the standing committees were selected in reference to the duties they were ordinarily called on to perform. He would ask if this was an ordinary subject? It was one of the very highest magnitude, and should be sent to a committee raised with express reference to it, instead of being sent to one of the standing committees. He should therefore vote against its reference to the Judiciary Committee.

Mr. CAMBRELENG begged gentlemen to reflect that if the message was sent to the Committee of the Whole on the state of the Union, probably three weeks would be spent in debate upon it. All that was desired, was that a committee should report the necessary amendments to the present laws relative to the collection of the revenue. The whole subject was of a judicial nature. One great object was to obviate the replevin law of South Carolina and provide for enforcing the laws of the United States. In his opinion no course was so proper to effect this object, as the proposed reference to the Committee on the Judiciary.

The reference was then made to the Judiciary Committee by a large majority of the House.

Mr. CLAY moved the message and documents be printed, which was adopted, and twenty-five thousand additional copies were ordered.

THURSDAY, January 17.

Tariff Bill.

Mr. McKENNAH, of Pennsylvania said: Sir, the protective policy has been recognized as the

true policy of the country ever since the foundation of the Government. Almost the first act of Congress, which was passed after the adoption of the constitution, was entitled, in part, "An act for the protection and encouragement of manufactures."

The essential importance of this policy to the wealth and independence of the nation early attracted the attention of the father of his country, who was always alive to every thing which was calculated to promote its best interests; and who, in his Executive messages, pressed upon Congress the promotion and encouragement of it, with all the solicitude he felt for the future glory and prosperity of that country. In this his efforts have been seconded by all the distinguished men who have since filled the Executive chair down to the present period; each and all of whom have in some form or other, advocated and maintained, encouraged and enforced it, as the only true policy.

Eight years of actual experiment satisfied the people, and their representatives, that the protection afforded our manufacturers by the law of 1816, was insufficient to enable them successfully to compete with foreign capital and skill, and with the pauper labor of Europe, and determined them to carry out the principle of that law, by giving to the labor and enterprise of our citizens, efficiency, ample encouragement, and protection. This determination produced the enactment of the laws of 1824 and 1828, which did afford to our farmers, mechanics, and manufacturers all necessary protection and encouragement. Believing, then, the policy of the Government to be settled, fixed, and permanent, as evidenced by these various acts of legislation, hundreds, yea, thousands of millions of dollars have been vested by the people in the establishment of manufactories, and in the growth and culture of the raw material consumed in them throughout the country—the whole of which, there is too much reason to fear, will be sacrificed, if the bill reported by the Committee of Ways and Means, now under discussion, shall be adopted by Congress.

And now, Mr. Chairman, permit me briefly to inquire what have been the practical operation and effect of this system upon the interests and upon the prosperity of the country? Commerce, contrary to the anticipations of its enemies, has flourished—the mechanic arts have been encouraged—the laborer has experienced a greater demand and higher wages for his labor—the farmer has been secured a steadier and a better market for his produce—the planter of the Southern States has prospered—the manufacturer has prospered—the whole country, and all its parts have prospered, not excepting the very State which is now so loudly and so boldly presenting its complaints; whose flourishing condition is exhibited in the most glowing colors in the last annual message of her Executive; and besides all this, sir, under the operation of this very system, will shortly be exhibited to the world the extraordinary and

astounding spectacle of a nation of better than twelve millions of people, free of debt.

Sir, a system which has been fraught with so many benefits and blessings to the nation, ought to be touched with care, with delicacy, and with caution! Whilst the extinguishment of the public debt will be hailed by our citizens as an era of exultation and of mutual congratulation, it is apparent that its approach will not be unattended with its difficulties, embarrassments, and dangers. It is conceded, that when that era does arrive, there must be some modification or alteration and reduction of the duties heretofore imposed upon imports, in order to prevent the accumulation of a surplus revenue in the treasury, above the amount necessary to discharge all the expenditures of the Government; and how this is to be done, without endangering great and important interests, is a question of no ordinary difficulty. In anticipation of this event, a bill for the reduction of the duties was passed at the last session of this Congress. At least four months were occupied in preparing, maturing, and discussing the merits and the provisions of that bill. In it great and important concessions were made to our brethren of the South. The minimum system which has latterly become so obnoxious to them, was abolished. "Those articles, principally necessary for the maintenance and clothing of the laborers of the South and South-west, were, to a certain degree, relieved; and, both by its direct enactments, and as incident to its main scope, it encouraged and increased consumption of such articles as depended for their fabrication upon the raw materials and productions of the South." It is now before the people as a matter of experiment. The time proposed for its going into operation has not yet arrived. What will be its effect upon the revenue, and (what I consider of greater importance) what will be its operation upon the industry of the country, cannot be known or ascertained. No experience of the past can enable us to determine, and no man, unless he possesses the spirit of prophecy, can tell.

With this law, then, on our statute book, as yet inoperative, why are we now driven with an urgency which will not admit of a month's, a week's, an hour's delay, into the passage of another bill of reduction, which, with all due deference to the committee who reported it, may, in my view, be better denominated a bill for the prostration of domestic industry. Where is the imperious demand for this precipitancy in the passage of a bill, which involves in it the most vitally important interests of the country? Have we heard a voice, sir, from home—from our constituents—thundering in our ears, and demanding the immediate reversal of the act which we did, with so much deliberation, not six months ago. Where is it? Has any one heard it?

What then, is the state of the facts which have probably dictated this movement? They have been officially announced to us in the mes-

sage of the President, and are spread before the people; we cannot close our eyes upon them. A single State of this Union has raised her puny arm against the power of the Government. I use this term, sir, not with any view of disparagement or insult to the State which has thought proper to place herself in this attitude. But the arm of any single State, of any six single States, is puny and powerless when raised against a Government founded upon the affections of the people, and which has strength enough to crush into nothingness any forcible opposition to the enforcement of its laws, from whatever quarter, or from whatever persons, it may proceed.

South Carolina has placed herself in an attitude of hostility against the Government. She has pronounced your laws unconstitutional, void, no law, and has declared that they shall not be enforced within her limits. Is this the time, then, sir, for deliberation, for cool, deliberate, dispassionate discussion of a subject involving the permanent change of a system which has raised the country to a point of unexampled prosperity, and which, in its overthrow, may involve millions in ruin and wretchedness? Can it be expected that we will be driven by the menaces of South Carolina, to recede from the ground we have taken, to abandon the policy, and the very principle of protection to American enterprise and American labor? For she has proclaimed to the world that she will be satisfied with nothing less than a total, absolute, unqualified abandonment of the principle. Sir, she asks too much, and I, for one, am prepared to say that I cannot, will not, grant it. The bill upon your table, sir, destructive as I consider it to be to the interests of the Northern, Middle, and Western States, would not satisfy her, for it asserts, in form, at least, the principle of protection.

I hope with all my heart, sir, although I confess, from present indications, it seems to be hoping against hope, that she may recede from the fatal ground she has assumed. The universal voice of condemnation which has been heard from one extreme of the Union to the other, from each and all of her sister States, ought to satisfy her that she has gone too far. But, sir, if she refuses this advice, and will persist in her career of madness, we must meet the crisis, and meet it like men, with forbearance, but with firmness. In the humble part which I have to act, I shall endeavor, fearlessly and firmly, to discharge my duty to my conscience, my constituents, and my country, and leave the consequences to that superintending Providence, who, I hope and trust, will deliver us in this time of difficulty, of distress, and of danger.

Mr. Root, of New York said: He did not suppose that the bill now submitted to their consideration was originated with any view of altering the system of protective policy, which, it seemed, was established in this country; its

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origination in the present session was, unquestionably, owing to the organized, and, if they pleased, legal opposition offered by one portion of the country, against the collection of revenue under the tariff laws of 1828 and 1832. Unquestionably the bill before the House was introduced for the accomplishment of the purposes recommended by the President at the opening of the session, and with a view to conciliate, if possible, their Southern brethren, and to induce them to stay their hand in opposing the laws. This bill, then, whether regarded as an act of justice, or as a sacrifice offered up on the altar of their country, was certainly a laudable measure. As an act of justice, he was willing to support it. He had ever believed, and he still believed, that the imposition of taxes, by way of duties on imports, further than was necessary to meet the just demands of the Government, was both oppressive and unjust; and that to lay such duties, was to take from one citizen for the purpose of giving to another. If the duty were laid merely by way of protection, somebody must be the loser, and it must be done for the benefit of somebody who was to be the gainer by it; because, the world was made no richer by the imposition of these duties; they accumulated no additional wealth in the world; they brought no additional treasures into the nation; they could not do so, because they were not creative in their effects. They had this effect, and they could have no other; they made the price for a given article, purchased from the American manufacturer, higher than it would be if no such duties existed. It was evident, then, that the manufacturer was benefited by them; he was the gainer, and the consumer must be the loser. He had said that those duties gave no additional treasure to the nation; perhaps it would be argued that they acted as an incentive to a greater degree of industry, and that, therefore, they did enrich the nation. Why, sir, said Mr. R., if this be your only object, you might as well tax the people in some other way, to pay the laborer for doing that which would be of no use when done; but I imagine, sir, the people will hardly feel it just that they should be ground down by taxes, merely, forsooth, for the purpose of making them more industrious in the performance of useless drudgeries imposed on them by their masters. At the opening of the session, I was rejoiced exceedingly to find a feature in the message of the Executive, which so completely conformed to my own views on taxation. I did hope that those views would be carried through, and sustained by Congress. I still hope they will, and with this modification, that the duties shall be laid in such a manner as to raise a moderate revenue, sufficient for the expenses and exigencies of the Government, and no more; and, at the same time, incidentally protect American industry. Mr. R. said that a bill, modified in this shape, would have his most cordial support. There was one modification which he must especially require at the

hands of the committee; it was, that the agricultural produce, which was the great staple of the county in which he resided, should not be left entirely destitute of protection; but that, on the contrary, the raw material should receive the same protection, whatever it might be, which was given to the manufacturer for goods manufactured from it: the article to which he alluded was wool.

The gentleman from Pennsylvania might suppose that the spot where he resided was more highly favored of heaven, and that, therefore, it was of most consequence to the nation. Be it so. But the county in which I reside, said Mr. R., situated on yonder hills, contains a larger quantity of sheep, in proportion to its population, as computed at its last census, and likewise in proportion to the number of cultivated acres, than any other county in the Union. And he would tell gentlemen that the tariff of 1828, he might say the tariff of 1824, but more especially that of 1828, bore harder upon the people of that county, than it did on any other country, either in Carolina or in Georgia. They had, indeed, the solace, that then it was that a duty was imposed on wool; wool was protected; and, in a county, where they paid annually to the treasury duties to the amount of sixty or seventy thousand dollars. This was the only thing which sweetened the bitter draught; for he could assure the House the duties on sugar was no sweetener; their only solace was the duty on wool, and the consequent high price of the fleece. The bill before the House proposed to take that protection away; but if from wool, let them take it from woollens also, and not hire Europeans to cross the Atlantic to work up the raw material here. Let them work up their own, or let the raw material be shipped from this country to work up there, rather than give a bounty to workmen to cross the Atlantic.

But gentlemen appeared to feel some alarm about passing such a bill just now. He had heard it said, to be sure, it was in a confabulatory manner; but he had heard it said that it would not do to pass a bill reducing the duties at the present session. Why not? Because, forsooth, it would be regarded as an evidence of fear, or as an abject submission, under the threats of one State of the Union, which, it seemed, had put itself in hostile array against the present tariff laws. What! said Mr. R., because that State has, by its convention, declared its grievances, and has further declared that, inasmuch as it considers those laws unjust and unconstitutional, it also considers them null and void; because of this, is nothing left us but to bear the strong arm of power? Will it be an exhibition of cowardice, an evidence of fear? Will it show submission to South Carolina, to do that which is right and just? For my own part, sir, I shall not feel my own individual honor wounded if this offering be made, whether it be on the altar of justice, or

on that of concord. Be just and fear not. Is it an act of justice? Do it, then. Is it an act of conciliation, a sacrifice, if you will, on the altar of concord? If it is that, and that alone, willingly, sir, will I, for one, make it.

FRIDAY, JANUARY 18.

Tariff Bill—Reduction—Mr. Verplanck's Bill.

MR. VERPLANCK rose. He began by regretting the course which the discussion had taken; and that the opponents of the bill had not complied with the invitation he had given, at an early period, in behalf of the committee which had reported it. It was their wish to have taken up the bill, section by section, and item by item, so that, upon any motion to amend, or any objection from any quarter, such defence or explanation as the occasion might call for, could be offered by the committee, and for this they were fully prepared. Unfortunately, as Mr. V. thought, for a fair consideration of this bill, a long, ardent, and desultory debate had been excited, by those who were adverse to its whole policy. In the discussion, upon a motion to strike out the duty on teas, the great principles which been so often agitated in the present, as well as in many a former Congress, were again drawn into debate. In addition to this, almost every item of the bill had been touched upon in some way or other, and transiently attacked; woollens, and iron, and cottons, and tobacco, had their turn; and my distinguished colleague from New York, (Mr. Root,) whom I have known for years as the champion of wool, had just driven his flock of sheep down from his Delaware mountains into the throng of the debate.

It is difficult now to reply to all these objections in a manner to be of any practicable use in deciding these several points. They must, if we proceed in the bill, come up in detail, and the committee, if called upon, will then endeavor to show the grounds upon which the several rates in it have been fixed. How it was, for instance, that woollens, which it was said had been unreasonably reduced, in comparison with other articles, had, in fact, no small compensation for that difference, by a reduction of the duties on the raw material, oil, and dye stuffs. How it was, to take another instance, that the duty on tobacco, which had been complained of as an excessive protection of Southern interests, was, in fact, so purely nominal upon an article of which we exported five millions of dollars' worth a year to foreign markets, that the committee had not thought it worth while to legislate specially about it, and had, therefore, left it subject to the operation of former laws. If any gentleman wished to introduce an amendment on this specific point, it would probably meet with but little opposition, and should it become part of a law, it would probably produce just as little effect.

Waiving all these details, as well as the dis-

cussion of those general principles of constitutional law and public policy, which would find a more appropriate place when the bill was reported to be finally acted upon in the House, if it should have that good fortune, Mr. V. said it was his intention to endeavor to come back to the question more immediately before us. He would, therefore, endeavor to reply to some of the objections which had the most direct and practical bearing upon the details of the bill. Among the most formidable of these, were the financial difficulties which had been so ingeniously raised by his able colleague on the committee of Ways and Means, (Mr. INGERSOLL,) who had alone dissented from the report and bill presented by the rest of the committee.

The ground of the argument was this, that whether the plan of finance now proposed was good or bad, the present was not the time for financial reduction: that the treasury still required, for some years, the aid of the higher duties and large income provided for by the existing laws: that, in fact, at the expiration of the last year, the treasury was left not only empty, but subject to a heavy charge of debt, without the means to meet it.

It had been said, that, on the 1st January, 1833, the only remaining funds in the treasury were the million and a half which had, year after year, figured in the reports of the Secretary of the Treasury as unavailable funds, consisting of the paper of broken State banks, whilst the treasury was still subject to various heavy demands. These were, first, seven millions of funded debt; next, about five millions and a half of unsatisfied appropriations, for various purposes, made during the last year; and, thirdly, about seven hundred thousand dollars, paid by the Government of Denmark as a compensation for spoliation on our commerce, which was merely a temporary deposit in our treasury, to be paid over to the merchants when their claims were adjusted.

Let us see, said Mr. V., how this matter stands. And, first, as to the funded debt. This the Committee of Ways and Means had considered, as they stated in their report, to be fairly liquidated, by setting off the stock owned by the Government in the Bank of the United States. This stock, at the market price, somewhat exceeded the present amount of the debt due by the nation. It also produced an interest, and was likely to do so, during the continuance of the Bank charter, of about one hundred and sixty thousand dollars annually, above the interest payable on the national debt.

It had been said that the bank stock could not be sold without glutting the market; thus depreciating its value to the Government, and ruining individual stockholders. Certainly this might be done, if all branches of the Government were so disposed; but it was equally certain that it would not be done. It would be very easy to empower the Secretary of the Treasury to dispose of this stock at a price not less than its true value, and under such re-

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strictions as would prevent any fluctuations in the stock market, injurious to either public or private interests. The Bank itself might be authorized to purchase the stock, and it might be made the interest of that institution to do so, as enabling it to operate, for the remainder of its charter, upon smaller capital, and, consequently, with greater profits. What restrictions as to the sale, might be necessary, would be for the wisdom of Congress to determine hereafter. But if from any cause whatever, no such sale could be effected, still the funded debt unpaid was substantially provided for by the Bank stock. There was an income of nearly 500,000 dollars a year during the existence of the Bank charter to meet the payment of the interest on the debt amounting to less than three hundred and fifty thousand dollars a year; and, in the meanwhile, until the principal of the Bank stock was refunded, the payment of the debt might be anticipated, and extinguished, in whole or in part, by the application of such balances as would remain in the treasury at the end of each year. For I think it may be made to appear that in all human probability, under the operation of this bill, should it become a law, there will be such balances remaining unexpended in the treasury. Here, then, there is no debt unprovided for, at which the most timid political economist need be alarmed.

The second difficulty raised is of a more plausible character. I mean that founded on the unsatisfied appropriations for former years. Of the moneys appropriated during 1832, for the service of that year, there are still five millions and a half of unsatisfied appropriations. These are debts, it is said, for which the nation is liable; that we owe the money; that there can be no higher claim than an appropriation by Congress; that we should be always ready to meet these demands, however and whenever they come; and that the treasury is not now in a state to do so.

Let us again look at the true state of the case. Thirty years' experience, during peace and war, has shown us that there are, of necessity, in every financial year, certain portions of the appropriations which will not only not be paid during that year, but, in fact, from the mode of expenditure, can never be payable until late in the next. These are of various kinds, and it would weary the patience of the committee were I to enumerate them all. A considerable proportion of them are in the naval service. A large amount of the sum appropriated for the gradual increase of the navy, is applied to contracts for cannon, copper, and other materials, and for frames for frigates and seventy-fours. These contracts, of course, take a considerable time, often a year or more, for their completion, and the payments are consequently deferred until that period. So in the large annual appropriations for pay afloat in the navy, two-thirds, on an average, of such appropriations, applicable to distant squadrons, is never payable until their return to the United States. So

also in contracts for the army, for cannon, provisions, clothing, &c., the money is not payable until the contract is fulfilled, and a large proportion of these are not payable until a year after the nominal appropriation is made. Thus, a portion of the actual appropriations of every year are but nominal debts during that year, and remain so until they become earned and payable in a succeeding one. Some portion of this is never earned or expended, and after two years returns to the general funds, by being passed, in the books of the treasury, to what is called the surplus fund. There are also, of course, some portions of the appropriations which, from less fixed and regular causes, are either not payable or not claimed until more than a year after such appropriation. Thus there are always, and have been uninterruptedly, for many years, and must always be, some three, four, or five millions of the sums appropriated in each year, and more as the appropriations increase, actually chargeable upon the income received during the next.*

It is due to candor to allow that, owing to the protracted session of the last summer, and the late period at which some of the appropri-

* What is here stated by Mr. Verplanck in relation to the unapplied balances of appropriations, presents a curious problem in the financial working of the Government—a paradox! but not the less true, because apparently impossible and contradictory. The statement (reduced to its brief meaning) is, that the moneyed operations of the Government can be carried upon less than its income,—one-fifth less at the time Mr. Verplanck was speaking, and frequently a quarter less. In other words, that the annual appropriations do not require an annual income of the same amount to meet them, but can be met by a fourth or a fifth part less, resulting from the fact that the whole appropriations cannot be applied within the year; and that the unapplied part becomes available for the next year—its place being supplied by the daily income. And this not only true of the last quarter of the year, but of every quarter in it: and so on to continue, to the end of the last year of the Government.

This is a point to which the attention of the author of this Abridgment was early directed after he came into the Senate. He had seen the working of the British system of finance in this particular, and how it was corrected (in his time) by the elder Mr. Pitt; and he wished to bring the same reform into the working of the American financial system. The reserve of money in the treasury, authorized by law at that time, was two millions of dollars. That reserve was authorized by the Sinking Fund act of 1817, drawn by Mr. Lowndes. The author of this Abridgment believed, *first*, that the act had been erroneously construed; and, *secondly*, that there was no necessity for any reserve by law at all; and submitted resolutions, enforced by a speech, to that effect, (March 3, 1833.) The resolutions met with no favor. They were referred to the Financial Committee, and reported against. But two years afterwards their object was accomplished. The fourth section of the Sinking Fund act of 1817—the section that made the reserve—was repealed, (April 24, 1835.) And the moneyed operations of the Government went on, not only as well, but better than before; for, the greater freedom given to the Treasury, enabled the public debt to be paid off the sooner. But the experience of that day has been lost, and

ation bills passed, this amount is something greater than usual during the present year. But it is asked, is it not the part of a prudent statesman to keep always a sum in the treasury to meet these demands, which will certainly come at some time or other? Would not every prudent man do so in regard to his own affairs? Would such a man trust to contingencies to meet demands which he knows must be paid in three, six, or nine months? Certainly he would not. Neither does the Treasury of the United States. Nor yet is it obliged to keep a large sum of money lying unemployed, and for this simple reason: if there is always a certain amount of the appropriation of one year remaining to be paid in the next, there is also always a much larger amount of revenue earned in the one year, which, in consequence of our credit system of revenue, is not paid until the next. Under the former system of long credits, which is still partly in operation, two-thirds of the revenue earned in any one year, and secured by the best commercial security, falls due in one year, and is paid in the next. Under the shorter credits of the act of 1832, this proportion is altered; about one-half falling due within the year of importation, the other half in the next. Many years of custom-house experience have shown us that these securities are perfectly to be relied upon; and that even during the most disastrous periods of trade, the losses to Government are trifling in the extreme. In the present year, it so happens that, to meet the five millions and a half of the unsatisfied appropriations of 1832, there is a net revenue accruing from the custom-house bonds, given in 1832, and actually falling due weekly and daily during the present year, amounting to fifteen millions six hundred thousand dollars. Would any prudent man, in private life, under similar circumstances, consider his debts unprovided for? Ought any statesman, under such circumstances, wish to tax the people for the sake of accumulating money in the treasury? The policy of storing up treasures of gold and silver for future uses, is that of a past age. We now live in what one of our own poets, who is a man of business as well as a poet, has happily termed "a bank note world," in which, though there is doubtless too much paper, yet the place of Government hoards of gold and silver is well and safely supplied by commercial securities or custom-house bonds and deposits. This is no new doctrine: it is the settled policy of our Government. It was originally recommended and enforced by the late Mr. Lowndes, and was finally and fully carried into effect by an act passed about four years ago, repealing the old provisions for keeping a surplus in the treasury, and authorizing the head of that de-

partment to apply, at his discretion, the whole of the unexpended balances, at the end of each year, to the payment of the public debt. It is by the judicious exercise of this power that the extinction of the debt has been so rapidly hastened.

I come to another class of objections. These are in regard to the amount of revenue to be derived from this bill. It is indeed difficult to reply to all these. They remind me of the story told of (I think) Dean Swift, who once asked an acquaintance, "Did you ever find any good weather in the course of your life?" The other replied, "Yea, thank heaven! a great deal." "Now," said the cynical wit, "I never did; I have always found it too hot or too cold, too wet or too dry." Our poor bill has met with even harder censures than that of Swift upon the weather. It is not only too hot or too cold, too wet and too dry, too high and too low alternately, but all of them at the same time. One gentleman undertakes to prove that it will leave the treasury naked, bare, and desolate as the sea-shore at low water, while others pledge themselves to prove that it will bring in such a tide of importation, as will sweep away all the manufactories, and fill the treasury to overflowing.

To all this I have only to reply, that the committee, in their estimates, may have erred somewhat on one side or the other, but that these estimates were not arbitrarily assumed, but were grounded upon well known general laws of importation, consumption, and increase of population, which, like the calculations of insurance or annuities, may fail, in special cases, or in any given year, but always hold good in the main. They have made a calculation of the effect of their bill upon the actual importation of a certain year, that of 1831, for they thought that this would produce a more certain and practical result than could be obtained in any other way. This, it is true, was a year of higher importation than ordinary, though about the same as that of 1832. The committee believed that this excess over the average of former years, though it might perhaps fall short in this or the next year, would not fall short of the average of several years to come, taken together, under the operations of the new bill. They have stated their reasons for this in their report, and I need not minutely recapitulate them. Every year gives us an increase of population as well as wealth, and a consequent increase of consumption, and the means to pay for foreign goods by our own manufactures, or products of the soil, fitted for foreign export.

We have not, however, the vanity to presume that we have framed a perfect bill. We have no pride of opinion on this subject that can prevent us from listening with pleasure to any suggestions intended not to destroy, but to improve the bill; and if good reasons are shown for so doing, we are willing to accept any amendments which may make the language of

a new reserve of six millions is now authorized by law. Of that new reserve, this author still thinks what he said once before—that it was a mistake! which economy, the science of administration, and the purity of the Government, required to be corrected.

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the bill more clear, precise, or comprehensive, which will proportion the duties more justly, or which will adjust more equitably the several periods of the gradual reduction. All that we claim of this House is, that the bill should be received in the same spirit of frankness in which it is presented, and not assailed with vague and contradictory objections, without the offer of any better plan of impost, either in whole or in part.

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MR. APPLETON, of Massachusetts, said: What are the circumstances under which this measure is brought forward? Notwithstanding the greater part of the last, long protracted session was occupied on this subject; notwithstanding the result of those labors was the passage of a bill, by the votes of a majority of this House almost unprecedented in any important measure—a bill which was received throughout the whole country with all but universal satisfaction, as a fair compromise, as the harbinger of peace, of reduced excitement; notwithstanding all this, we are now informed, by authority, that we must review our work; that that bill will not do; that the whole matter must be gone over again.

The measure before us naturally presents two questions: the first, whether it is necessary, proper, or expedient, that we should pass any bill on this subject; the second, whether, on the supposition that that question is answered in the affirmative, this is such a bill as we ought to pass.

Notwithstanding the impatience of the honorable gentleman from Tennessee, (Mr. Polk,) that we should come to the details of the bill, I must first discuss the preliminary and previous question—are there any good reasons why we should pass any bill at all?

Why, Mr. Chairman, should we disturb the act of last July? Nobody dreamed of doing so before the meeting of Congress. All the reasons are to be found in the communications to this body from the Executive. Let us examine them. The duty is urged upon us of reducing the revenue to the expenditures of the Government; and the first question is, what relation do they now bear to each other?

The President informs us, in his annual message, that "It is expected, however, that, in consequence of the reduced rates of duty, which will take effect after the 3d of March next, there will be a considerable falling off in the revenue from customs in the year 1833. It will, nevertheless, be amply sufficient to provide for all the wants of the public service, estimated even upon a liberal scale, and for the redemption and purchase of the remainder of the public debt."

Well, sir, then for 1833 there is no difficulty. Notwithstanding the reduction in the term of

credit for duties after the 3d of March, and the circumstance that a considerable portion of them will be payable in cash, thus concentrating a great part of the revenue of two years, the revenue is only expected to be amply sufficient for the expenditure, including the reimbursement of the balance of the public debt, so that for a year to come, at least, there can be no surplus.

We are next told that "the final removal of this great burden [the public debt] from our resources affords the means of further provision for all the objects of general welfare and public defence which the constitution authorizes, and presents the occasion for such further reduction in the revenue as may not be required for them.

Here is a sentiment to which the whole nation will respond; the happy era of freedom from debt, presents an admirable opportunity for doing something liberal and glorious for the general welfare.

But, sir, without making any calculation for these proposed objects, of which the Secretary of the Treasury, in his annual report for the last year, furnished us a long list, have we arrived at a point where we can decide with any degree of certainty or confidence that the revenue, under the bill of last session, will exceed the proper and necessary expenditure of the Government? That bill was framed for the express purpose, and with the express view, to reduce the revenue to the amount of the expenditure, and at the same time, to preserve that incidental protection to manufactures which has always formed a part of our revenue system.

The Secretary of the Treasury informs us, in his last annual report, that he still believes that fifteen millions (as estimated in the report of 1831) is a fair estimate of the probable expenses of the Government, for all objects other than the public debt. I shall assume it to be so; and propose to inquire what reason there is to believe the revenue under the act of July last will exceed that sum.

In doing so, I put out of the question the sales of the public lands, as not furnishing any permanent fund for the expenditure of the Government. It is well known that a bill for the distribution of the proceeds of these sales amongst the several States, passed the other branch of the Legislature during the last session, and was postponed in this House, at the close of the session, by a small majority, on the ground that the time was too short for acting upon so important a matter. There are various other projects for the disposition of these lands; and we are told, by the same high authority under which this bill is brought before us, that "it is our true policy that the public lands shall cease, as soon as may be, to be a source of revenue." It would, therefore, be absurd to take them into view, in an arrangement of the duties intended to be permanent.

Fifteen millions are wanted, then, as rev-

enue from imports, and the question is, whether, under the act of July last, they will produce a greater sum. We find in the last annual report of the Secretary of the Treasury the following paragraph: "Taking an average of the importations, for the last six years, as a probable criterion of the ordinary importations for some years to come, the revenue from customs, at the rates of duty payable after the 8d of March next, may be estimated at eighteen millions of dollars annually."

As the Secretary has not informed us of the process by which he comes to this result, its correctness can only be tested by such data as the official documents furnish; and I confess I cannot, by any calculation which I can make, come to the same result. But before presenting my own calculations, I must call the attention of the committee to another circumstance connected with this inquiry, of a character altogether extraordinary. The President, in his last annual message, urges the necessity of reducing the duties to the revenue standard; and the Secretary of the Treasury, in his report accompanying it, makes use of the following language, speaking of his report of 1831, communicated to this House at their former session:

"In the last annual report on the state of the finances, the probable expenses for all objects other than the public debt, were estimated at fifteen millions. This is still believed to be a fair estimate, and, if so, there will be an annual surplus of six millions of dollars.

"Still firmly convinced of the truth of the reasons then presented, for a reduction of the revenue to the wants of the Government, I am again urged, by a sense of duty, to suggest that a further reduction of six millions of dollars be made, to take effect after the year 1838. Whether that shall consist altogether of a diminution of the duties on imports, or partly of a relinquishment of the public lands as a source of revenue, as then suggested, it will be for the wisdom of Congress to determine.

"Deeply impressed with these reflections, which are now rendered more urgent by the reduced and limited demands of the public service, I had the honor at the last session of Congress to recommend a reduction of the duties to the revenue standard. The force of those, and similar considerations, and of that recommendation, may be supposed to have received at that time the sanction of Congress, and to have formed a motive of the act of the 14th of July last, notwithstanding that it was not then deemed practicable fully to adopt the recommendation of the department."

Mr. Chairman, on reading these passages in the report of the Secretary of the Treasury, I thought it the language of pretty severe reprimand, because we had failed to carry into effect his recommendations for reducing the revenue, and as urging that circumstance as the ground for requiring our further action. In the hurry in which that bill was made to take its final

shape, it was not easy to calculate precisely the comparative reduction which it made, as compared with the bill from the treasury: my own impression, at the time, was, that it went quite as far, or farther, than that bill. The language of the Secretary, therefore, a good deal surprised me, as indicating a result so different from my own expectation. It occurred to me, in examining into this matter, to inquire, how far we had failed in our duty; how far we had fallen short of the Secretary's recommendation. I will not conceal my astonishment at the result; and, sir, I ask, what will be the astonishment of this House, should it turn out, after all, that the bill of July provides for as great a reduction of the revenue, as that furnished us by the Secretary himself? Nay, more, sir: what will they think, should the reduction under our own bill go beyond that proposed by the Secretary a full million of dollars? It is, indeed, passing strange; but it is said figures cannot lie, and I can bring them to no other result, as the following table will show:

[Here follow the tables, the results of which are stated in the argument.]

There may be a few other small items, operating both ways, but which cannot affect the result; besides, the addition on raw wool is altogether greater than will ever result in practice: the importation of 1831 being wholly unprecedented, and more than three times the amount imported in any one previous year. It may, therefore, be safely assumed, that the act of July, 1832, reduced the amount of duties more than a million of dollars below those proposed by the Secretary of the Treasury, assuming the import of 1831 as the basis. It would seem, therefore, that if the duties have not yet been reduced to the revenue standard, it is not the fault of the two Houses of Congress, who have actually gone beyond the recommendation of the Executive.

The question then arises, have we any good ground for believing that we shall be overburdened with an excess of revenue under the existing law?

It is notorious that, at the present moment, instead of there being any money in the treasury, the balance is actually the other way. In the correspondence between the Secretary of the Treasury and the President of the United States Bank, it was admitted that the Government would be short at least some few hundred thousand dollars of the amount requisite to pay off the three per cents. on the first of January, and which it wished the Bank to advance on interest. So that, at present, we are in fact somewhat behindhand. Now, the gentleman from Connecticut (Mr. INGERSOLL) of the Committee of Ways and Means, has shown conclusively, that, according to the estimates of the Treasury Department, the balance in the treasury on the first of January, 1835, will be less than the appropriations which will then be outstanding. I do not perceive that this state-

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ment is at all impugned by that of the chairman of the Committee of Ways and Means, (Mr. VERPLANCK.) The only difference appears to be, that the latter thinks we ought to be constantly in debt to the outstanding appropriations some millions; trusting that they will not be called for until we can receive the amount from new sources. This appears to me rather a niggardly course, as a permanent one, for a Government free of debt, and with a reduced income, as it leaves them no available fund for possible contingencies.

The most important question, however, is, whether the permanent revenue under the act of 14th July, 1832, will probably exceed the sum of fifteen millions of dollars, the estimated necessary expenditure. In recommending the measure of reduction to us, the Secretary of the Treasury, in his annual report of December, 1831, made use of the following very sensible language:

"It will be difficult precisely to graduate the revenue to the expenditure. The necessity of avoiding the possibility of a deficiency in the revenue, and the perpetual fluctuation in the demand and supply, render such a task almost impracticable. An excess of revenue, therefore, under any prudent system of duties, may be for a time unavoidable; but this can be better ascertained by experience, and the evil obviated, either by enlarging the expenditure for the public service, or by reducing the duties on such articles as the condition of the country would best admit."

I agree fully in these sentiments, and they would seem to offer an irresistible argument against disturbing the existing law, until tested by experience. The Secretary of the Treasury, in his communications of the last year, assumed the amount of imports for 1830 as the basis of his calculation, being 70,876,000 dollars. He now assumes the average of six years, including 1832, which gives 86,200,000 dollars, whilst the Committee of Ways and Means assume 100,000,000.

The importation of 1830 was a very small one. In fact, the only correct mode of estimation for the future is to take an average of years, and in the present case the result will be, as nearly as may be, the same, whether we take an average of four or six years. Taking, then, the average adopted by the Secretary of the Treasury, as a fair basis of calculation, and I shall attempt to show that it is the utmost which can safely be taken, from the gross imports of 86,200,000 dollars must be deducted the amount of foreign goods exported, which, on an average of the same period of six years, amount to a fraction over 20,000,000, leaving 66,200,000 as the net amount of foreign imports, including those free and those liable to duty, consumed in the country, and from which the revenue from imposts is to be derived. The only accurate mode of estimating this revenue, under a change of duty, would be, to take the average amount of each article, liable to duty under the new act, imported for the last

six years, and, deducting the quantities exported, calculate the duty on the balance, as the average net quantity consumed. We have been furnished with no such table; and, in the absence of it, I must take such data as we have. The table annexed to the report of the Committee of Ways and Means gives twenty-three dollars and sixty-six cents per cent. as the average duty payable on the entire import, under the act of July last, taking the importation of 1831 as a basis of calculation. This ratio will give on the net import of 66,200,000, a revenue of 15,660,000 dollars, subject, however, to a deduction for the expenses of collection, of about a million of dollars.

Now, sir, I think it can be made apparent, that this mode of estimation gives too high a result, because the import of 1831 embraced imports of certain articles paying the highest rates of duty, vastly greater than the average imports of the same articles for six years, or than can safely be calculated on for the future, as the following:

	Import of 1831.	Average of 4 years.	Rate of duty.
Wool costing over 8 cents,	1,234,000	400,000	54 per ct.
Woollens subject to high duties,	6,100,000	4,100,000	50 "
Cottons,	16,090,000	10,800,000	42 "

Now, it must be apparent that this excessive importation in these particular articles goes to increase the rate of duty on the whole importation very materially over any average of years which can be taken. From a calculation which I have made, these items will reduce the average rate of duty from twenty-three dollars sixty-six cents to twenty-two dollars forty-four cents per cent.; and in this table no allowance is made for the reduction of one-half the duty on wines after the 3d of March, 1834. Putting all these things together, I estimate the excess arising from this mode of estimation, as amounting to at least a million of dollars, on the net revenue, which will reduce it below \$14,000,000, on the basis assumed by the Secretary of the Treasury.

Mr. Chairman, I am not insensible to the dangers which threaten the republic. One of the States of this Union is in rebellion, peaceable rebellion; or if that word sound too harsh, be it a crisis; or, to be more strictly correct, South Carolina is in a state of nullification. But is there any danger so imminent in this? She has done what it was apparent twelve months ago she would do. She has put in practice, as a remedy, a political theory nearly as absurd as the system of political economy on which she founds her grievances. But, sir, in my apprehension, the danger of the present crisis is past; nullification is nullified. The President's proclamation, ratified, as it has been, by one universal burst of public opinion, has killed it. It is true South Carolina is raising troops; but does any one apprehend danger to

the Union from South Carolina, by force? with a white population of two hundred and fifty thousand, equally divided, and holding in her bosom three hundred thousand slaves? No, Mr. Chairman, no one apprehends danger from South Carolina alone. No one supposes that South Carolina will undertake to set herself up as a nation by herself. She is acting, and we shall act, under other views. Our sense of danger, and the real danger, lies in the circumstance, that throughout all the Atlantic States owning property in slaves, from the Potomac to the Mississippi, there is a strong feeling of common interest; a strong sympathy for South Carolina; a violent clamor, a great excitement against the protective system; an idea, more or less general, but certainly of a large majority, that the system is unequal in its operation, and injurious to them. Nor is it surprising that this state of feeling should exist. Whoever listened to, or has read the speeches which were delivered in this House, during the last session of Congress, by a certain party, and which were dispersed, thick as autumnal leaves, through the whole region of the South; with other incendiary tracts, all calculated, if not intended, to rouse the whole South to madness, cannot be surprised at the result. We were told in this hall that the protective system was a vampire, by which the North was sucking the warm blood of the South; that the free States were prairie wolves, gorging their jaws by instinct in the blood of the South, whilst oppression, robbery, and plunder were sounded to every note of the gamut. Is the result surprising? Those who could not understand the argument on which their wrongs were founded, could understand the application; and coming from such sources, can it be wondered at that the existence of these wrongs should be believed.

Now I suppose that it will be conceded that a great majority of the people of the States north of the Potomac, and of the West, believe the system of protection to be one of sound policy; that the practical operation of it has been beneficial to them, and injurious to none; that the prostration of the system will inflict real injury on them, by paralyzing their industry, without proving of any benefit to the South; but that, on the contrary, they will suffer in the general injury. This is the state of the case. It certainly presents matter for grave consideration, for wise and deliberate counsel. But do we lessen the danger by refusing to look it calmly in the face? The danger is disunion. Shall we strengthen this Union, and lessen this danger, by yielding up what a majority of this House in their consciences believe, what a majority of this nation believe, to be a great national good, in complaisance to opinions which we believe to be wholly erroneous? That such is the opinion of a majority of this House, stands on record in the journals of the last session, under the sanction and responsibility with which we perform the duties

of our high trust. Under these circumstances, I also ask, in the language of the President, what shall be done? Shall we sacrifice great interests, under the influence of panic, or shall we examine fearlessly into the nature of the malady, and ascertain if it be capable of a permanent cure.

It is apparent that this great difference of opinion grows out of one great circumstance in the condition of the different sections of the country—the existence and non-existence of slavery. The great question is, whether this circumstance presents any real incompatibility or difference of interests, so as to make a system which is favorable to one section actually injurious to another. This is rather a question of fact. I am favorably inclined to the proposition of the gentleman from Rhode Island (Mr. BUREAU), or something of similar character, for a large committee, or for commissioners, to inquire into the actual operations of the tariff; to bring the sufferings of the South into something like a tangible shape; to give us facts, of which we have so little, in the place of theory, of which we have so much. I should like an inquiry into the state and effect of manufactures, thorough and searching, like those which are gone into before committees of the British Parliament on all questions affecting great interests.

Then, sir, there is another consideration connected with this subject. The tariff is put forward as the great, the only ground of complaint; but is it the only ground of apprehension, of fear? Sir, it is idle to disguise it. Every man who hears me knows that there is a question behind the tariff, to which that is but as dust in the balance; a question which includes what may emphatically be called the Southern interest, the Southern feeling; which includes also the fear and apprehension of the South that the General Government may one day interfere with the right of property in slaves. This is the bond which unites the South in a solid phalanx, and this is the key to their jealousy of allowing a liberal construction of the constitution in relation to the powers of the General Government. Why does Virginia pass weeks together in discussing the abstract right of secession from the Union? Does she wish to secede? No, sir, except in one event. She wishes to keep the door open, in case the question of emancipation should ever be seriously brought before Congress. There lie on the table before you certain resolutions of the State of Georgia, proposing a convention of the States for certain enumerated purposes. I noticed, when these resolutions were reported in the Georgia Legislature, an additional proposition for the consideration of the convention, viz., what further security should be obtained for a certain description of property. This was struck out, by unanimous consent; and why? Was it that this last consideration, like the postscript to a letter, was not considered important? Not at all; but it was not thought expedient

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to express any distrust of the security under the present constitution. For myself, Mr. Chairman, I believe the South are unduly sensitive on this point. I know of no Northern statesman who calls in question the inviolability of the property in slaves under the constitution. I am sure the people of the State which I have the honor, in part, to represent, have no more disposition than they believe they have right to interfere in this matter in any way. But, sir, this extreme sensitiveness and apprehension on the part of the South in this matter, is an element too important to be overlooked in adjusting their supposed grievances.

There is another question. Does the South really wish the continuance of the Union? I have no doubt of the attachment of the mass of the people of the South to the Union, as well as of every other section of the country; but it may well be doubted whether certain leading politicians have not formed bright visions of a Southern confederacy. This would seem to be the only rational ground for accounting for the movements in South Carolina. A Southern confederacy, in which South Carolina should be the central State, and Charleston the commercial emporium, may present some temptations for individual ambition.

MONDAY, February 4.

Slavery in the District of Columbia.

Mr. HICKES, of Pennsylvania, presented a memorial from sundry citizens of Pennsylvania, praying that slavery may be abolished within the District of Columbia.

Mr. H. said he had had forwarded to him seven petitions of the same tenor, containing the signatures of more than one thousand citizens of Pennsylvania, praying for the enactment of a law or laws for the abolition of slavery and the slave trade in the District of Columbia.

Although it was not likely, at this late period of the session, and at a time when the attention of the National Legislature is engaged on subjects of primary and paramount importance, that any action could be expected during its present session, in reference to the subject matter of the petitions he held in his hand—yet every philanthropist might justly cherish the hope that the time was not remote when the Congress of the United States would deem it not unworthy of their serious consideration to devise some practical scheme for the gradual abolition of slavery; and its worse concomitant, the slave trade, in this District.

When we reflect, sir, for a moment, (said Mr. H.) on the gross inconsistency of the theory and practice of our Government, and look to the sentiment contained in that sacred instrument, the Declaration of our Independence, that all men are born free and independent, "with certain inalienable rights, amongst which are life, liberty, and the pursuit of happiness;" and see that, in practice, there exists the most

abject slavery in this boasted land of liberty, and that, too, at the very portals of your hall of legislation, and in these "ten miles square," over which exclusive legislation has been confided to Congress—an anomaly such as this may be unhesitatingly pronounced unprecedented in any country, at the present or any other period of time.

We all know, said Mr. H., how the evils of slavery were entailed upon our country; that it is not a matter of censure, but of regret; and how delicate a subject it is to touch, or to legislate upon. And he would be among the last of those whose misguided zeal might desire Congress to interfere in any manner with this species of property within any of the States of this Union.

But whatever others might think with regard to the propriety of petitions coming from any other source than from the people of this District on a subject in which they alone may be supposed to be interested, he had no hesitation in saying that amongst the names attached to these petitions, there are those of men inferior to none in estimating the sacred rights of private property, and in a discriminating knowledge of legitimate subjects to be brought here for the consideration of this honorable body. And he would add that, in his humble belief, in common with theirs, the fair fame and character of the whole nation is deeply involved in the continuance of slavery and the slave trade in this District; and that the subject merited, and he trusted it would receive, the deliberate attention and consideration of this body, at no very remote period. He moved their reference, without reading, to the Committee on the District of Columbia.

On this motion, Mr. MASON, of Va., demanded the yeas and nays.

Mr. MASON observed, that this memorial came from persons not interested personally in the question of negro slavery; and the language of the memorial, and the remarks with which its presentation had been accompanied, referred to the existence of slavery very generally; and though the gentleman from Pennsylvania disclaimed any wish that Congress should abolish it in the States, yet this was but the commencement of a series of measures which tended to that result. It would be time enough for Congress to act respecting the District of Columbia when the people of the District should themselves request it.

Mr. BATES, of Maine, moved to lay the memorial upon the table.

Mr. DENNY observed that many similar memorials had already gone to the same committee.

Mr. CRAIG, of Virginia, was as much opposed to all impertinent interference by States not interested in slave property with the tenure of that property in the slave-holding States as his colleague could be; but the people of Pennsylvania and Massachusetts, and all the Northern States, were as much concerned in all matters relating to the District of Columbia as those of the Southern States, and therefore the petition

was perfectly regular, and such as the petitioners had a right to prefer, and should therefore be treated as other petitions were.

Mr. ADAMS said he hoped the question would be taken, if the gentleman from Virginia should not, on reflection, conclude to withdraw his call for the yeas and nays. If he would withdraw it, he would confer a benefit upon the House and the country, by preventing a very unpleasant debate. Mr. A. had last session presented fifteen memorials of a similar tenor with this one; they had all gone to the Committee on the District. A short report had soon followed, and then the subject was heard of no more during the session. Mr. A., though not in favor of the sentiments expressed in the memorial, was opposed to laying it on the table, as being disrespectful to the petitioners. The right of petitioning was guaranteed by the constitution, and nothing but very extraordinary circumstances should induce the House to treat a petition with disrespect.

Mr. JENIFER, of Maryland, renewed the motion to lay the memorial on the table. On this motion Mr. ADAMS demanded the yeas and nays. They were taken, and resulted: Yeas 75, nays 98. So the House refused to lay the memorial on the table.

Mr. MASON then withdrew his opposition, and the memorial was referred to the Committee on the District of Columbia.

Reduction of the Tariff—Mr. Verplanck's Bill.

The House went into Committee of the Whole on the state of the Union, Mr. WAYNE in the Chair and resumed the consideration of the Tariff Bill.

Mr. LEAVITT, of Ohio, said: I am free to express it, as the strong conviction of my mind, that the gentlemen from the South, and their free trade friends from the North, ought not to have brought this subject before Congress at this session. I make this declaration, wholly uninfluenced by any feelings of prejudice or hostility towards the South. It is, I fear, but too true, that this feeling does exist, to no inconsiderable extent, between the Eastern and Southern portion of our country—but, for myself, I protest that I have none of it. I had lived, almost from the period of my infancy, in the Western country, and possess, I hope, some portion of that liberality of feeling, which so honorably distinguishes the great mass of the population of that prosperous and flourishing section of our Union. Occupying this position, I am constrained to say, that in my opinion the South ought not to have asked that the subject of the tariff should be agitated at this session. I am not unadvised of the state of feeling which exists in that section, in regard to the protective policy; nor have I been an uninterested spectator of what has been passing there. The voice of complaint and of discontent, which has come to us from that quarter, has not been unheard by me. I have been disposed to give it a respectful audience, and to pay it a respectful attention, without inquiring too

astutely, whether the grievances complained of were fancied or real. In this spirit, I approached the consideration of the modification of the tariff, at the last session, and gave my vote for the bill which then passed. I voted for it, as a measure conciliatory in its character, and as making no inconsiderable concessions to the South. And, may we not justly infer, from the strong vote it received from gentlemen representing the South, that they too considered it in this light? The provisions of that act, in contrast with those of the act of 1828, are highly favorable to the South. It is estimated, that the operation of the act of last session, will result in an aggregate reduction of the duties on imports, to the amount of nearly eight millions per annum. And, among the articles upon which, by that act, the greatest reductions are made, is the cloth of which negro clothing is made, and negro blankets. These are permitted to come in under a mere nominal duty—a duty of five per cent. Sir, will gentlemen contend that this is no boon to the South, no mitigation of what they are pleased to call the oppressions of the tariff? I well remember with what feelings of high gratification the passage of the act of the last session was received, not only by myself, but by gentlemen opposed to the protective policy, and representing anti-tariff States. I rejoiced upon that occasion, because I had, as I thought, the best reason to believe, that while that act would afford competent protection to the manufacturing interests, it would allay the discontent, and quiet the excitement in the South, and restore once more the disturbed harmony of the country. That act passed both Houses of Congress by an almost unprecedented majority; and, as it regards the vote in this House, one strong item of testimony in favor of the justness and fitness of the arrangement of duties which it provided, is to be found in the fact, that the negative votes upon its final passage, are made up of gentlemen who belong to the extremes of the two parties on the tariff question; of those who may be called the highest toned friends of the tariff, and of those who, both upon the grounds of the constitutionality and expediency, are its unyielding and uncompromising enemies. But, again, sir, it should be borne in mind, that this subject of modifying the tariff was then laboriously examined, and amply debated in this House and also in the Senate. It occupied the almost undivided attention of Congress for many weeks—and, every gentleman here can bear witness of the arduousness of the duties of this House during that period. None will have forgotten how, day after day and week after week, we were doomed to encounter the noxious, I was going to say pestilential atmosphere of this Hall, when within it; and without, the burning rays of an almost midsummer sun. But the bill did pass, and became the law of the land, though made to take effect on the 2d of March next, a day to which we have not yet been brought in the revolution of time.

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Sir, it is under these circumstances that we are again called upon to act on the subject. The law of last session making very material changes in the tariff law, sanctioned and passed by the very members who are now present, has not yet gone into operation. And we are now called upon to pass another act, making further and still greater alterations in our system of laying duties on imports. In view of all these facts and considerations, am I not fully justified in the assertion that Congress should not have been called upon for its action on this subject, at this session? Is it not due to the people, is it not due to the character and standing of the Congress of the United States, that the act of July, 1832, should be permitted to take effect, to the end that we may have a practical illustration of its bearing and operation, not only upon the manufacturing and agricultural interests of the nation, but upon its revenue?

The argument in favor of an immediate reduction of the tariff, predicated upon the supposition that the bill of last session is to give us a redundant treasury, is not, to my mind, conclusive or satisfactory. Is there, then, any other fact or consideration, which calls upon this Congress, at this session, to adopt the anomalous course of reviewing and repealing a law which was enacted by it, after great deliberation, so late as the month of July last, and which has not yet taken effect? I am aware that the State of South Carolina, acting in her sovereign capacity, "has adopted measures to nullify not only the act of last July, but all other laws for the imposition and collection of duties." I am aware, too, that she threatens to put her nullifying machinery into operation, with all the "pomp and circumstance of war." But certainly no gentleman is prepared to admit that this sort of military demonstration, this "peaceable" process of nullification, ought to induce Congress to pursue a course in relation to the tariff, different from what they would have done under other circumstances. If the tariff is now reduced, in pursuance of what may justly be called the dictation of South Carolina, will it not be to sanction the legitimacy and efficacy of the course she has adopted, and to make nullification triumphant? Sir, it was but a few days since, that, at a public meeting in South Carolina, it was openly avowed by a prominent orator and leader in the ranks of the nullifiers, that the bold stand which that State had taken against the tariff had caused Congress to pass the act of last session, and had been the means of inducing the Secretary of the Treasury to recommend a further reduction of six or eight millions. And what, sir, would be the language of the orator, if we were to pass the bill now before us? Would it not be ascribed to the fear of nullification; and would not the people reproach us with having pursued an extraordinary course of action in our legislation on the tariff, under the influence of this fear?

But we are told that, leaving South Carolina wholly out of view, justice to the other Southern States which do not sanction the course of that State, demands at our hands the immediate adoption of the measure under consideration. Sir, I cannot admit the legitimacy of this conclusion. Let gentlemen from the South view this subject candidly and dispassionately, and I think they will concede, that, in pressing the passage of this bill at this time, they are asking more than strict justice will warrant. Let them bear in mind what they have already achieved, in their efforts to modify and mitigate the protective policy, and what has already been yielded to them by its friends and advocates. Let them reflect that the prosecution of an extensive system of internal improvement by the General Government is no longer considered a part of its settled policy, and is not likely hereafter to afford a pretext for drawing money from the pockets of the people, to be expended for those purposes. Let them, moreover, bear in mind what they have gained by the passage of the tariff act of last July: and lastly, let them remember, that gentlemen on this floor, of all parties, and from all quarters of the Union, have united in avowing the opinion, that the revenue of the country ought not to exceed the wants of the Government, administered upon just and economical principles. It seems to me the South ought to be well satisfied with this state of things, and has no right either to ask or expect of the Northern, Middle, and Western States, a total sacrifice of their vital interests. Sir, I believe there is no such irreconcilable diversity of interests between the different sections of this Union, as that they cannot all exist and be prosperous under the same system of legislation. If the subject of adjustment of the tariff shall be approached at the proper time, and in the proper spirit—in the spirit of compromise and conciliation—I doubt not but it may be settled upon a permanent basis, in such a manner as that, while the great agricultural and manufacturing interests of the nation shall be adequately sustained, the South shall have no cause or pretext for complaint.

Mr. ADAMS said that he had some days since given notice of his determination, after the friends of the bill should have had an opportunity of rendering it as perfect as they could, to move to strike out the enacting clause; he would now fulfil his purpose, and would move that the enacting clause of the bill now before the committee be stricken out.

He would offer a few words in support of the motion. The merits of the bill, as well as its demerits, had been very fully argued, and he would not repeat what had been so well said by others. It was his opinion that neither this bill, nor any other at all resembling it, should pass at the present session of Congress. There was one idea which he had not heard suggested by any gentleman, and which was a decisive reason with him why the bill ought not to become a

law. The bill would not, as it seemed to be calculated by many, reduce the amount of the revenue, but on the contrary, greatly increase it. To reduce the revenue was the professed object of the bill. The reasons for passing it had been assigned, first by the President in his message to Congress, then by the Secretary of the Treasury in his report, and lastly by the Committee of Ways and Means. But the President himself had recommended the measure conditionally only; if it should be found upon examination that the existing protection on certain commodities manufactured in the country was excessive, that is, that it was greater than the good of the country required, that then a bill should be passed to reduce it. Had such an inquiry been instituted? It had not. No inquiry had taken place, and the House was consequently in possession of no evidence to show that the present protection was excessive. If the House then should pass this bill, which went so materially to affect great and widespread interests of the country, without any previous inquiry, it would not be following the recommendation of the President, but the contrary. Mr. A. did not say that if such an inquiry should be made, and it should then appear that the protection was too great, that he should oppose a bill to reduce it; but the investigation was an indispensable preliminary, and the fact must first be established.

There was another reason why Mr. A. should vote against the bill. From a certain quarter of the Union Congress had a most solemn declaration, made in the name of one of the States of the Union, and addressed to all the other States, that the protective system should no longer be carried into effect within that State. In the address from the convention of South Carolina to the people of the twenty-three other States of this Union, communicated by the President, with his recent message to Congress, are the following passages. The convention, speaking in the name of the people of South Carolina, say:

"We have, therefore, deliberately and unalterably resolved, that we will no longer submit to a system of oppression which reduces us to the degrading condition of tributary vassals; and which would reduce our posterity, in a few generations, to a state of poverty and wretchedness that would stand in melancholy contrast with the beautiful and delightful region in which the providence of God has cast our destinies. Having formed this resolution, with a full view of all its bearings, and of all its probable and possible issues, it is due to the gravity of the subject, and the solemnity of the occasion, that we should speak to our confederate brethren in the plain language of frankness and truth. Though we plant ourselves upon the constitution, and the immutable principles of justice and interest to operate exclusively through the civil tribunals and civil functionaries of the State, yet we will throw off this oppression at every hazard. We believe the Federal Government has no shadow of right or authority to act against a State of the Confederacy in any form, much less to coerce

it by military power. But we are aware of the diversities of human opinion, and have seen too many proofs of the infatuation of human power, not to have looked with the most anxious concern to the possibility of a resort to military or naval force on the part of the Federal Government; and in order to obviate the possibility of having the history of this contest stained by a single drop of fraternal blood, we have solemnly and irrevocably resolved that we will regard such a resort as the dissolution of the political ties which connect us with our confederate States; and will, forthwith, provide for the organization of a new and separate Government."

And again, and in another passage, the convention still more pointedly say:

"We will not, we cannot, we dare not submit to this degradation, and our resolve is fixed and unalterable that a protecting tariff shall be no longer enforced within the limits of South Carolina. We stand upon the principles of everlasting justice, and no human power shall drive us from our position."

Now, with respect to the peaceful nature of this remedy, he never heard it spoken of but it reminded him of the first adventure of Gil Blas. Gil Blas had been furnished by his uncle with a sorry mule, and thirty or forty pistoles, and sent forth to seek his fortune in the world. He sat out accordingly, but had not proceeded far from home, when, as he was sitting on his beast counting his pistoles with much satisfaction into his hat, the mule suddenly raised her head, and pricked up her ears. Gil Blas looked round to see the cause of her alarm, and perceived an old hat upon the ground in the middle of the road, with a rosary of very large beads in it. This was the object which had startled his mule. At the same time he heard a voice addressing him in a very pathetic tone—"Good traveller! in the name of the merciful God, and of all the saints, do drop a few pieces of silver into the hat." Looking in the direction from which these sounds proceeded, he saw, to his great dismay, the muzzle of a blunderbuss projecting through the hedge, and pointing directly at his head. As he moved, this threatening muzzle moved also, still directed at his head. On looking more closely into the hedge, he perceived that it was supported on two cross sticks and aimed by a figure having the air of an old soldier. Gil Blas, not much pleased with the looks of this very pious mendicant, hastily dropped some pieces into the hat, and clapping his heels into the sides of his mule, rode off with all the speed he could from this peaceful solicitor of alma. This presented to Mr. A.'s mind one of the most perfect emblems of the pacific remedy of nullification he had ever seen.

But if it was indeed true that nullification was intended as a pacific remedy, Mr. A. had this consolation, that the execution of the laws was also a pacific operation, and would continue to be such, as long as the resistance to it was pacific; so long as nullification was pacific, the resistance to nullification would prove to

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be pacific too, and so there could be no danger that force would be used at all. This was one reason why Mr. A. should vote against the bill. Gentlemen supposed that if it should not pass, there would be great danger of bloodshed; but there could not be the least danger of this, provided those who adopted the principles of nullification acted according to their professions and promises. It was not their purpose to resort to force; and as there would then be no need of force to execute the laws, there would be no force in the matter, and, of course, no bloodshed. It was supposed that this very peaceable and friendly question might be settled without the intervention of force. Mr. A. wished it might; but he considered it of such a nature that the question ought to be settled. It ought to be known whether there were any measures by which a State could defeat the laws of the Union. For if there were, and the laws might be set aside at pleasure, we must seek for some other form of government to live under.

Mr. A. had heard this Union called a confederacy of States: and such was the idea put forth in the South Carolina address. It did not address the people of the United States; it recognized no such people. The constitution, according to that doctrine, was the work, not of the people, but of their attorneys. It was said that the act was the act of the States, and that this was a union of States. That was, in one sense, true. It was a union of the people and also a union of States. The convention of 1787 was the result of an act of the representatives of States; but, as it came from their hands, the instrument was nothing; it had no more force or value than a blank indenture, not sealed. It might as well be maintained that the attorney who drew an indenture was one of the parties to it, because he drew it. It was true that the States were also parties to it, because they had always been separate communities, and, after the establishment of the national independence, were still to continue so. That was the reason why the votes of the people were taken in separate masses, and not in one. It was more convenient; but it was not the State who gave force to the constitution. The convention sent the instrument to Congress, and asked them to submit it to the State Legislatures; but did the State Legislatures act upon it? No. And why? Because they could never use the language, "We the people." They were not the parties to it; they could not give it their sanction; they did not pretend to act upon it; they called conventions of the people to decide on the single question, and the people adopted the constitution, commencing with the words, "We the people." It had been the act of the people collected in separate communities, but forming one people, whose sanction alone gave to the constitution all its power. Even had the States, as States, unanimously ratified it, it would have been a dead letter until the people had acted upon it.

In fact, it was in this very point that the difference lay between this instrument and the confederation. The nullifiers would have them to be one and the same. The confederation has been created by the State Legislatures and by Congress. They went on the principle that this was not a Government, but a confederacy. Therefore it was first made by the State Legislatures, and afterwards by Congress. The people had never acted upon it at all; they had no part or lot in making it; and it was because such an instrument was found, in practice, to be wholly inefficient, and that it would be impossible for the people of this Union to live happily or peaceably under it, that they went to work another way.

Here, however, Mr. A. said that he was wandering from the subject before the committee.

The position he had assumed was, that the Government was bound to protect the great interests, all the great interests of the citizens. Wherever any great interest existed in the community, there the protection of Government must, of right, be extended. But protection might be extended in different forms to different interests. It was true that the interests of one portion of the community could often be protected only at the expense of some other portion of it. It was the complaint of the nullifiers that the Government took money out of the pockets of one portion of the Union to put it into the pockets of another. And in extending protection, this must always more or less be the case. But then, while the rights of one party were protected in this way, the rights of the other party were protected, equally, but in a different way. He would illustrate this position.

In the Southern and the South-western portions of this Union, there existed a certain interest, which he need not more particularly designate, which enjoyed under the constitution and the laws of the United States, an especial protection peculiar to itself. It was protected first by representation. There were on that floor upwards of twenty members who represented what in other States had no representation at all. Mr. A. believed that it was not three days since he heard it declared by a gentleman from Georgia, (Mr. CLAYTON,) that the species of population he now alluded to constituted the "machinery of the South." Now, that machinery had twenty odd representatives in that hall; representatives elected, not by the machinery, but by those who owned it. Was there any such representation in any other portion of the Union? Did the manufacturers ask for any representation on their machinery? He believed their looms and factories had no vote in Congress; but the machinery of the South had more than twenty representatives on that floor. And if he should go back to the history of this Government from its foundation, it would be easy to prove that its decisions had been affected in general by majorities less than that.

Nay, he might go further, and insist that that very representation of which he had spoken, had ever been, in fact, the ruling power of this Government. Was this not protection? Was it not protection at the expense of another portion of the community? If it did not literally take money out of the pockets of some, and put it into the pockets of others, still it operated in precisely the same way. Yes; this very protection had taken millions and millions of money from the free laboring population of this country, and put it into the pockets of the owners of Southern machinery. Mr. A. did not complain of this. He did not say that it was not all right. What he said was, that the South possessed a great protected interest—an interest protected by that instrument—[Mr. A. held the constitution in his hand.] He was for adhering to the bargain, because it was a bargain. Not that he would agree to it if the bargain were now to be made over again.

But there was another great interest protected under the constitution. He referred to the interest of commerce and navigation. The country had a navy, which was now costing it two or three millions of dollars a year. Of what value was this to the manufacturer, or to the wool grower, if they should reason on the narrow and contracted principle, that their personal interest was the only interest in the community for which they ought to care? On such principles, the navy was nothing to them. It might achieve as many, and as glorious victories as ever had been won by the wooden walls of the fast-anchored isle: the manufacturer was not a cent the richer for them. But he was obliged to pay to support the navy, and to pay six or seven millions, including navy and army.

The House could not pass any bill that would not, of necessity, confirm the ordinance of South Carolina. No law upon this subject could, at this time, be enacted by Congress, but would be received and understood by all parties, friend and foe, to be the triumph of nullification. The State of South Carolina had said that the tariff law was null and void; and that it should not be executed within her limits. And Congress immediately replied, by declaring that that law should not be executed anywhere. Mr. A. admitted that such a proceeding might, for a moment, remove the question of nullification. But it would be for a moment only. Let Congress permit one State to declare that its laws should not be executed, and submit to have that declaration carried into effect, and they would soon have States enough tell them that the laws should not be executed within their limits. And, without intending any reflection on South Carolina, he might observe, that there were States in this Union, who, if they should say the same thing that South Carolina had said, might make it a much more serious question. And the House might take his word that they would have such language addressed to them.

Mr. A. was against the passage of any thing.

He wished to see the question settled. South Carolina had made up an issue; she said she wished it settled peaceably. Mr. A. was for meeting her, and settling the question she had made. This Union was now tottering. It was tottering to its foundation on the question whether a single State possessed the power to annul laws enacted by the whole Union. He averred that this was a question on which the continuance of the Union depended. It was a question that must be settled, and this was the time to settle it. There was no time in which it could be so fitly and so advantageously settled, as at this time, because those who raised the question declared their desire to be, that it should be settled peaceably. Mr. A. wished that it might be settled peaceably. He believed that it would be, because he believed that the nullifiers would not strike the first blow; and that the Government would be too wise and too cautious to do it; and if neither party struck the first blow, it must be settled peaceably. Either the laws would be executed, or the tariff annulled, and the protecting system destroyed. If that system should be destroyed, he would not say in what form the question would come up, as a question far more serious than was now made, and to be settled in reference to a different interest. At present the interests of the South were protected, and superabundantly protected, by the provisions of the constitution. Let that protection be destroyed, and they would find their security put in question in a manner not so easily gotten rid of. The notion held out in favor of the bill was, that it was to allay discontents. And the chairman of the Committee of Ways and Means had delivered a very pathetic and very eloquent eulogium upon fear. Mr. A. had listened to it with great delight; but as he knew that gentleman to be an accomplished classic scholar, he would venture to remind him that there were other virtues besides fear, suitable for the exercise of a patriot and a statesman, on which as just and eloquent eulogiums might be pronounced. Among these was the virtue of fortitude—a virtue, which he was under a solemn conviction that every member of this House, and every intelligent citizen of this community, would at no distant day be called upon to exercise; in commendation of which he would refer the gentleman to a classic authority, which no one better understood, or was more qualified to appreciate. He alluded to the sentiment so eloquently expressed by the great Roman poet:

*Iustum et tenacem propositi virum
Non cletum ardor prava jubentium.
Non vultus instantis Tyranni,
Mente quatit solida.*

WEDNESDAY, February 13.

Bank of the United States—Sale of Stocks.

Mr. POLK, from the Committee of Ways and Means, reported the following bill:

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Bank of the United States—Sale of Stocks—Presidential Election.

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AN ACT *authorizing the sale of the Bank Stock of the United States.*

SEC. 1. *Be it enacted, &c.* That the Secretary of the Treasury be, and he is hereby, authorized to sell the shares owned by the United States in the Bank of the United States, on such terms as he may deem most for the interest of the United States: *Provided*, That no stock be sold for less than the market value thereof, or for less than the par value.

SEC. 2. *Be it further enacted*, That it shall be lawful for the Bank of the United States to purchase said stock, or any part thereof, any thing in any act to the contrary notwithstanding.

The bill having been read, and the question of course being on ordering it to a second reading,

Mr. WICKLIFFE, of Kentucky, objected, (which at this stage is equivalent to a motion for rejection;) and the question being then stated in the form required by the rule, "Shall this bill be rejected?"

Mr. WICKLIFFE said he was impelled, by a sense of his duty to his constituents and to his country, to do, in this case, what he had never done since he had had a seat on this floor—to move the rejection of a bill at its first reading. There are cases, said Mr. W., in which courtesy should yield to the demands of justice and public duty; and this, in my humble judgment, is one of them. I do believe that the passage of this bill is not demanded by any public consideration. It is fraught with incalculable ruin to all private interest, except the interest of the stockjobbers of Wall street. I will say nothing of the interest which political stockjobbers may feel in the measure now before you. This measure will inflict injury, perhaps ruin, upon many of your honest, and I might say, in reference to the interest which they have in this institution, unprotected citizens. Its immediate effect would be to reduce thirty-five millions of the stock of the country, performing, in a great measure, the functions of a circulating medium in our commercial exchanges, ten per centum in its value. Possibly I may over-estimate the loss; but I think not. This time last year this stock commanded, in the markets of the world, from twenty to twenty-five per centum advance. The ruinous policy which the administration of the country has pursued towards this institution has sunk the value of this capital twenty per cent., equal to seven millions. The United States has sustained a loss in the value of the stock held by the Government, equal to one million four hundred thousand dollars, and yet the Committee of Ways and Means propose a measure by which the Government will inevitably sustain a further loss of more than one million. For what reason? And why is this mad policy, sir, I might be allowed to say this wicked measure, proposed? I have heard none, nor can I discover any, save that the President of the United States has recommended it.

Is it wise to sell, at a sacrifice, stock yielding an interest of six per centum to the Govern-

ment, that money may lie idle in the treasury? Is not our treasury, at this time, said to be overflowing? Has not the administration told us that the present tariff will yield us at least six millions of money more than is needed for all the wants of the Government?

Mr. WHITTLESEY, of Ohio, demanded the previous question; which motion being seconded, the previous question was ordered: Yeas 94, nays 90.

The main question was then put in the following form: "Shall this bill be rejected?" and decided as follows:

YEAS.—Messrs. Adams, Chilton Allan, Heman Allen, Allison, Arnold, Ashley, Babcock, Banks, N. Barber, Barringer, Barstow, Isaac C. Bates, Branch, Briggs, Bucher, Bullard, Burd, Cahoon, Choate, Collier, L. Condict, S. Condit, Bates Cooke, Cooper, Corwin, Coulter, Craig, Crane, Crawford, Creighton, Daniel, John Davis, W. R. Davis, Dearborn, Denny, Dewart, Dickson, Drayton, Ellsworth, George Evans, Joshua Evans, Edward Everett, Horace Everett, Findlay, Grennell, H. Hall, Hawes, Heister, Hodges, Hughes, Huntington, Ibric, Ingersoll, Irvin, Jenifer, Kendall, H. King, Kerr, Letcher, Marshall, Maxwell, Robert McCoy, McDuffie, McKennan, Mercer, Milligan, Newton, Pearce, Pendleton, Pitcher, Potts, Randolph, John Reed, Pencher, Root, Russel, Semmes, William B. Shepard, Slade, Smith, Southard, Spence, Stanbury, Stewart, Storrs, Taylor, Philemon Thomas, Tompkins, Tracy, Vance, Vinton, Washington, Watmough, Wilkin, Wheeler, Eliasa Whittlesey, Frederick Whittlesey, Edward D. White, Wickliffe, Wilde, Williams, Young—102.

NAYS.—Messrs. Adair, Alexander, R. Allen, Anderson, Angel, Archer, Barnwell, James Bates, Beardale, Bell, Bergen, Bethune, James Blair, John Blair, Boon, Bouck, Bouldin, John Brodhead, John C. Brodhead, Cambreleng, Chandler, Chinn, Claiborne, Clay, Clayton, Coke, Connor, Davenport, Dayan, Doubleday, Draper, Felder, Ford, Foster, Galtner, Gilmore, Gordon, Griffin, Thomas H. Hall, William Hall, Harper, Hawkins, Hoffman, Holland, Horn, Howard, Hubbard, Isaacs, Jarvis, Jewett, Richard M. Johnson, Cave Johnson, Kavanagh, Kennon, Adam King, John King, Lamar, Lansing, Leavitt, Lecompte, Lewis, Lyon, Mann, Mardis, Mason McCarty, Wm. McCoy, McIntyre, McKay, Mitchell, Newnan, Nuckolls, Patton, Pierson, Plummer, Polk, Edward C. Reed, Roane, Soule, Speight, Standifer, John Thomson, Verplanck, Ward, Wardwell, Wayne, Weeks, Campbell, P. White, Worthington—91.

So the bill was rejected.

Presidential Election—Counting the Votes.

The hour of one having arrived, the Senate attended in the hall of the House of Representatives—the President of the Senate taking the chair of the House—and in the presence of the two Houses proceeded to open the votes of the Electors in the several States for President and Vice President of the United States. Messrs. GRUNDY, of the Senate, and DRAYTON and HUBBARD, of the House of Representatives, acted as a committee to read and enumerate the votes; and the whole having been gone through, the result was ascertained to be as follows:

H. OF R.] *Presidential Election—Death of James Kent, Jr.—Message from the President.* [FEBRUARY, 1833.]

Statement of the votes for President and Vice President of the United States, for four years, from the 4th of March, 1833.

No. of Electors appointed by each State.	STATES OF	For President.				For Vice President.			
		Andrew Jackson, Tenn.	Henry Clay, Kentucky.	John Floyd, Virginia.	Wm. Wirt, Maryland.	Martin Van Buren, N. Y.	John Sergeant, Penn.	William Wilkins, Penn.	Amos Ellmaker, Penn.
10	Maine.	10				10			
7	New Hampshire,	7				7			
14	Massachusetts,		14				14		
4	Rhode Island,		4				4		
8	Connecticut,		8				8		
7	Vermont,				7				7
48	New York,	48				48			
8	New Jersey,	8				8			
30	Pennsylvania,	30					30		
8	Delaware,		8				8		
10	Maryland,		10				10		
28	Virginia,		28				28		
15	North Carolina,		15				15		
11	South Carolina,			11					11
11	Georgia,		11			11			
15	Kentucky,		15				15		
21	Tennessee,		21				21		
5	Ohio,		5				5		
4	Louisiana,		4				4		
9	Mississippi,		9				9		
5	Indiana,		5				5		
5	Illinois,		5				5		
7	Alabama,		7				7		
4	Missouri,		4				4		
289	Whole No. electors.	219	49	11	7	189	49	30	7
145	Majority.								

Vote for President of the United States.

For Andrew Jackson, of Tennessee,	- 219
For Henry Clay, of Kentucky,	- 49
For John Floyd, of Virginia,	- 11
For William Wirt, of Maryland,	- 7

Vote for Vice President of the United States.

For Martin Van Buren, of New York,	- 189
For John Sergeant, of Pennsylvania,	- 49
For William Wilkins, of Pennsylvania,	- 30
For Amos Ellmaker, of Pennsylvania,	- 7
For Henry Lee, of Massachusetts,	- 11

Whereupon, the President of the Senate proclaimed that ANDREW JACKSON, of Tennessee, having a majority of the whole number of votes, was elected President of the United States for four years, from the 4th day of March next; and that MARTIN VAN BUREN, of New York, having a majority of votes therefor, was elected Vice President of the United States for the same term.

The Senate then withdrew, and the House adjourned.

FRIDAY, February 22.

Death of the Representative, James Kent, Jr., Esq.

Mr. HOFFMAN rose, and announced to the House the decease of JAMES KENT, Jr., a member

of the House of Representatives from the State of New York. After some appropriate remarks, Mr. H. submitted the following resolutions, which were unanimously adopted:

1. *Resolved*, That the members of this House will testify their respect for the memory of JAMES KENT, deceased, late a member of this House from the State of New York, by wearing crape on the left arm for the remainder of the present session of Congress.

2. *Resolved*, That this House will attend the funeral of the late JAMES KENT to-morrow, at eleven o'clock, A. M., and that a committee be appointed to take order for, and to superintend, the said funeral.

3. *Resolved*, That a message be sent to the Senate, to notify that body of the death of JAMES KENT, late a member of this House, and that his funeral will take place to-morrow at eleven o'clock.

The House then adjourned.

MONDAY, February 25.

Message from the President.

WASHINGTON, February 22, 1833.

To the House of Representatives:

I transmit herewith, for the consideration of the House, a letter from General Lafayette to the Secretary of State, with the petition which came enclosed in it of the Countess d'Ambugeac and Madame de la Gorce, grand-daughters of Marshal Count Rochambeau, and original documents in support thereof, praying compensation for services rendered by the Count to the United States during the revolutionary war; together with translations of the same. And I transmit, with the same view, the petition of Messrs. de Fontenille de Jeumont and de Rosignol Grandmont, praying compensation for services rendered by them to the United States in the French army, and during the same war, with original papers in support thereof; all received through the same channel, together with translations of the same.

ANDREW JACKSON.

The Message, with the petitions and papers, was referred to the Committee on Revolutionary Claims.

Revenue Collection Bill—Nullification.

The House arrived at the Senate's bill further to enforce the collection of the revenue.

Mr. CAMSON moved to refer the bill to a Committee of the Whole on the state of the Union. He made this motion, because he thought that on a question of so much importance the fullest and freest discussion ought to be allowed. The present measure was of a similar character to one already reported upon by the Judiciary Committee of that House, and which had been consigned to the Committee of the Whole on the state of the Union; consistency, therefore, demanded that the bill before them should be referred to the same committee. If it went at once to the House, the previous question might be called, and all deliberation cut off. Mr. C. concluded by deprecating the present bill as of a more despotic character than the alien and sedition law.

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Revenue Collection Bill—Nullification.

[H. OR R.]

Mr. WAYNE wished it to be understood, that when gentlemen designated the bill as one which was calculated to dissolve the Union, as a bloody bill, and so on, they misrepresented it grossly. He had hoped that something would have been done to compose the country; and probably his hopes would have been verified, if the action of the House had not been delayed by the death of a member. Why, he asked, should that important measure be now set aside, and another substituted? But it seemed as if it was not intended that the tariff bill should pass. The time had now arrived when men ought to act together for one common object—to have the tariff reduced, and the country pacified. He knew such a disposition to exist on the part of a sufficient number of members, although others would not suffer the bill to pass.

Mr. WARREN R. DAVIS said the House would do him the justice, and those with whom he acted, to own that they were in no way responsible for the snail-pace of the tariff bill; they had not impeded it by the frivolous amendments alluded to, or by propositions of any sort. They acquiesced in and followed the suggestions of friends on this floor, and remained silent on this deeply interesting subject, lest to their participation in the debate should be attributed whatever of a dilatory or stormy character it might assume. You have all witnessed, he said, that we submitted in silence to the reading and discussion of public documents, containing false, malicious, and defamatory libels on the State and people of South Carolina; to language of contumely and reproach upon our public functionaries, (friends whom we dearly love,) that shot like fiery arrows through our veins. Yet we were dumb. Still more, sir, the bitter cup was not yet full—it might not even thus pass. We felt it our duty to let the sacrifice be complete. We remained in our places, we kept our seats, and bore the torture. You all knew, from the beginning of the session, that such would be our course; yet we were baited at the start. What friendly voice of truth or justice was heard in our vindication during those hours, days, weeks, of burning agony? What did we hear from those who ought to have defended us? Why, that South Carolina was precipitate! After ten years of petition, prayer, and suffering; after witnessing all our Southern sister States taken up last summer with the presidential election, as if the shirt of Nessus were not upon their backs. Precipitate! away with such stuff and nonsense. And what, sir, do we now see? The tariff question, that has been creeping, loitering, drivelling, dragging itself through six weeks of the session; the very bill we were desirous to abstain from discussing, lest we might shake too rudely the leaves of its olive branch—a bill entitled, by all parliamentary right and usage, to precedence, is to be shoved aside, and this firebrand to be flung before it. Why? Because, forsooth, the President wills it! And

by whom is the attempt made to substitute this sword in the place of the olive branch? By the organs and fast friends of the President on this floor. Can I be mistaken? That I may not be, I desire now to ask of the honorable chairman of the Judiciary Committee (if he be in the House), I do not see him in his seat— [Here Mr. BELL rose from a different part of the House,] to ask, and the terms of former kindness between us entitle me to a candid answer, whether it is the intention of the party with which he acts, to give precedence and preference to the bill for collecting revenue.

Mr. BELL, of Tennessee, would answer the question in the same spirit of candor in which it was asked: it was desired to have this measure passed as soon as practicable, and, for that purpose, to give it precedence. He exonerated the delegation of South Carolina from all responsibility for the delay of the tariff bill, and approved their course on the occasion.

Then, said Mr. DAVIS, we understand it now. The President is impatient to wreak his vengeance on South Carolina. Be it so. Pass your measure, sir; unchain your tiger; let loose your war dogs as soon as you please. I know the people you desire to war on. They await you with unflinching, unshrinking, unblanching firmness. I know full well the State you strike at. She is deeply enshrined in as warm affections, brave hearts, and high minds, as ever formed a living rampart for public liberty. They will receive this bill, sir, whether you pass the other or not, with scorn and indignation, and detestation. They never will submit to it. They will see in it the iron crown of Charlemagne placed upon the head of your Executive; they will see in it the scene upon the Lupercal, vamped up and newly varnished; they will see in its hideous features of pains and penalties a declaration of war in all but its form; they cannot (for they are the best informed people on the face of the earth, or that ever have been on it, on the great principles of civil and political liberty) but see in it the utter prostration and demolition of State rights, State constitutions, ay, and of the federal constitution too. But, say gentlemen, and I am surprised at their blindness and hardihood, it is all a mistake; it is a mere bill for collecting the revenue—intended for the preservation of peace, and to prevent civil war. Civil war with whom? Sir, all usurpations are attempted on such mild, lovely, and benevolent pretexts as these. Peace, is it? Shame, Shame! You pour fire and brimstone on our heads, and bid us, in the language of a departed friend, "Be quiet; it is Macassar oil—myrrh—frankincense!" You tell us, with this bill of pains and penalties, of army, and navy, and militia in your fist, that it is a mere matter of revenue collection; a very quiet, peaceable affair. You collect taxes at the point of the bayonet, and call it civil process!

I have intimated, and I repeat, that I will not oppose the taking up this bill by any indi-

rect means; I am ready to meet and expose its deformity; I only ask that you will not gag us with your previous question. Vouchsafe me that, you may go your ways; but that you can apply the gag, is but too manifest, since the cordial junction *pro tanto* of two hostile parties; the one opposed to the President, and who declares that he is not worthy of his office, or of the trust and confidence of the country; and another that seems willing to grant him any thing he asks.

I heard a gentleman somewhere near me say that the whole question is one of dollars and cents. To be sure, it is the very gist and marrow of it; if it were not that there were such things as Southern dollars and cents, we would never have heard the question made; the nefarious system would never have grown up. All governmental oppressions, exactions, and tyranny throughout the world, and through all time, have been perpetrated for the dollars and the cents of honest people, earned by the sweat of their brow, for the purpose of giving them to the powerful or roguish, who did not earn them. If, however, it is meant to say that South Carolina makes a question of the mere amount, the more or less, to be contributed for the support of the Government, the short answer is, it is not true. What does her bright and glorious history tell you? To coin her heart for money; to drop her blood for drachms! Her objection is to your taking her dollars and cents, not for the support of the Government she jointly made with her sister States, but for the purpose of putting them in your pockets, or of the people or States you represent. The amount, even then, she might have borne as a temporary injustice, had you not declared it a perpetuity. The gentleman from Georgia (Mr. WAYNE) has informed us that this bill will be harmless, as a tariff project, not yet submitted, will certainly be adopted, that is better than either yet proposed. I am delighted to hear it; but why, in the name of liberty, is it not offered to us instead of this outrage on the constitution? Why arm the President with powers so dangerous to peace and freedom; and in the face of a recorded refusal by your predecessors to give the pacific civilian, the mild, virtuous, humane Jefferson, the much lesser power of suspending the *habeas corpus* act? Is this thing so coveted by, and gratifying to the President? Is this bloody bill, this Boston port bill, so delightful to him that it is to be preferred to that which is said to be pacificatory? Why, sir, if he must be gratified—must be amused and pleasurably employed, buy him a tee-to-tum, or some other harmless toy, but do not give him the purse and sword of the nation, the army and navy, and whole military power of the country, as peaceful playthings to be used at his discretion. If, however, this bill must pass; if there be no substitute so palatable as blood, I withdraw my opposition to its being taken up, and only ask the privilege of exposing its details; although

I clearly see that the interested passions on one side, and a supple subserviency on another, will ensure its passage by a very large majority. In what I have said, no individual allusion was pretended: I fired at the flock. My allusion was to a state of things as notorious as non-day. Our situation is peculiar, and some allowances should be made. Our representatives on this floor are small in number. Our people love honor as they do liberty: both have been assailed. We value highly the opinion of the wise and good; many, very many of whom we recognize in the ranks of our adversaries. It is when they show a disbelief or suspicion of the integrity of our purposes, or purity of our motives, that we feel the iron enter our hearts.

One word, sir, to the gentleman over the way—entirely over the way—who says this bill is necessary, because South Carolina has not yet repealed her ordinance. "Has not yet," I presume, means, notwithstanding the President's proclamation. Sir, South Carolina has received the insolent mandate of the President commanding her to retrace her steps, tear from her archives one of the brightest pages of her glory, and alter the fundamental principles of her constitution; and she sends him back for answer (through her humble representatives) the message sent from Utica to Caesar—

"Bid him disband his legions;
Restore the commonwealth to liberty;
Submit his actions to the public censure,
Abide the judgment of a Roman Senate,
And strive to gain the pardon of the people."

That, sir, is her answer.

Introduction of the Senate Compromise Tariff bill into the House: motion to make it a House measure by striking out the whole of Mr. Verplanck's bill, Tariff bill, and inserting the whole of the Senate bill as an amendment.

Mr. LETCHER moved to strike out all the bill after the enacting clause, and to insert another bill in lieu thereof, [the bill introduced in the Senate by Mr. CLAY.]

This being objected to,

Mr. LETCHER moved to recommit the bill to the Committee of the Whole, with instructions to report his bill to the House.

Mr. TAYLOR, Mr. ARNOLD, and Mr. DAVIS, of Massachusetts, rose together to ask for the yeas and nays, which were ordered, and the motion was agreed to: Yeas 96, nays 54.

The question being stated on engrossing the new bill,

Mr. DAVIS, of Massachusetts, rose and said: Mr. Speaker, I do not approve of hasty legislation under any circumstances, but it is especially to be deprecated in matters of great importance. That this is a measure of great importance, affecting, more or less, the entire population of the United States, will not be denied, and ought, therefore, to be matured with care, and well understood by every gentleman who votes upon it. And yet, sir, a copy has, for the first time, been laid upon our tables, since I rose to address you; and this is the first opportunity

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we have had even to read it. I hope others feel well prepared to act in this precipitate manner; but I am obliged to acknowledge I do not; for I hold even the best of intentions will not, in legislation, excuse the errors of haste.

I am aware that this measure assumes an imposing attitude. It is called a bill of compromise; a measure of harmony, of conciliation; a measure to heal disaffection, and to save the Union. Sir, I am aware of the imposing effect of these bland titles; men love to be thought generous, noble, magnanimous; but they ought to be equally anxious to acquire the reputation of being just. While they are anxious to compose difficulties in one direction, I entreat them not to oppress and wrong the people in another. In their efforts to save the Union, I hope their zeal will not go so far as to create stronger and better founded discontents than those they compose. Peacemakers, mediators, men who allay excitements, and tranquillize public feeling, should, above all considerations, study to do it by means not offensive to the contending parties, by means which will not inflict a deeper wound than the one which is healed. Sir, what is demanded by those that threaten the integrity of the Union? An abandonment of the American system; a formal renunciation of the right to protect American industry. This is the language of the nullification convention; they declare they regard the abandonment of the principle as vastly more important than any other matter; they look to that, and not to an abatement of duties without it; and the gentleman from South Carolina, (Mr. Davis,) with his usual frankness, told us this morning it was not a question of dollars and cents; the money they regarded not, but they required a change of policy. They demand the pound of flesh, with the unyielding obstinacy of Shylock, and they require this House to apply the knife nearest to the heart; and shall it be cut away? Is it patriotic? Is it harmonizing public feeling? Is it saving the Union to drain out the life-blood? What is this bill? I will not say it goes at once to such extremities, but it seems to me to contain a principle which works an unqualified abandonment of the protective policy, unless changes greater than we have a right to look for shall take place in our condition.

It proposes to descend, by a reduction, once in two years, of two-tenths of the excess of duties over and above twenty per cent. for nearly eight years. It then proposes to divide the residue of such excess, into two equal parts, and to remove the whole in two years, so that all duties on all imports will be run down to a level of twenty per cent. ad valorem, in between nine and ten years. The first part of the descent may be termed gradual; but in the last two years, the strides are, I fear, decidedly too long to be met by any preparation for them. Our course then is down hill during this time, wearing out the American system;

and when we arrive at the foot, we pass out from under the protection of that parental benefactor, and place ourselves under the guardianship of the Carolina system. I say from the American to the Carolina system, because duties which are now below 20 per cent., are to be raised to that amount, and all free articles, with the exception of an unimportant list of dyestuffs, are to be subjected to duties. Duties are, therefore, at the end of our declivitous course, to fall on all imported merchandise at an equal rate of twenty per cent. This is the Carolina system.

What will be the effect of this bill? The protection will be diminished from year to year. This will check the operations of capital; it will, I fear, stop investments, if it does not crush that enterprising, valuable class of young men who have entered upon business, relying upon their industry and capacity to carry them forward. They are in debt, and I fear timid creditors may fall upon them. Business then will be brought to a stand at any rate, and, if bankruptcies ensue, will be diminished. This is precisely what some interested in manufacturing are selfish enough to desire, for they have money; wages will be cheaper, if a portion of the mills cease to run, and no new ones are erected, and the capitalists will, by this means, in the end, gain more by a diminution in the competition in business, and the reduction in wages, than they will lose by the reduction in duties. But, sir, this is a policy founded in such naked selfishness; it is built up so manifestly at the expense of those who have small capital, and of the laborers; it is so hostile to the first principles of protection which invite the free investment of capital from all quarters, that goods may be made cheap by the competition, and the public be thus benefited, that no friend of American labor can give it his approbation on that ground. It may answer for a time the purposes of a few, if it operates as they anticipate; but should this prove so, it will be an unanswerable argument with the public for disapproving of it, for the causes which will make the measure valuable to some, will make it injurious to the public.

Again, sir, I can vote for no bill which abandons protection. I think this does. It adopts the Carolina system for equalizing duties, by bringing them all to 20 per cent. It abandons the exercise of all right to discriminate, and in that, give me leave to say, abandons common sense, for the system of equalization has never, to my knowledge, until now, found an advocate among financiers or political economists. It is, however, a very cunningly-devised plan, and worthy of its origin, (Gallatin, in the free trade report,) for it contains a sweet poison that will destroy the last remnant of protection. Who ever heard of so absurd a system as equalizing duties? What, impose the same duties on ardent spirits as upon tea and coffee! But why do the free traders desire an equalization? Why do they insist that the duty on hats, on shoes

and boots, on leather, on scythes, hoes and axes, shall be reduced to 20 per cent. ? Why do they at the same time insist that there shall be a duty of 20 per cent. on tea and coffee, pepper, spices, fruits, and a thousand other things which we do not, and never shall produce, and which are now free of duty ? It is to level all protection with the dust. They start with the proposition that the public debt is paid, that we have too much revenue, and it must be reduced. We have always contended, not that the revenue shall not be reduced, for we are not the advocates of an accumulating surplus, but that it shall be reduced by letting goods in free, or by diminishing the amount of duty when the whole cannot be spared, and that this principle shall be applied to merchandise not produced in this country, that our labor may have the benefit of the revenue as a protection. While we contend that the revenue shall be levied in this manner, the free traders insist that nothing shall be free, and that the duty on all shall be alike. The revenue, say they, is too abundant, and must be reduced. The bill before us, as reported by the Committee of Ways and Means, is for that purpose. What a happy mode of reducing the revenue, to diminish the duty on hats, shoes, boots, leather, axes, &c., from 30 per cent. and more, to 20 per cent., when the articles are so entirely produced here, under the present protection, that none are imported, and no revenue is realized. Is not the direct and obvious effect of such a reduction an experiment, to see if the foreign articles cannot be introduced, and the revenue increased instead of diminished ? It is a still more singular mode of reducing revenue to restore the duties on articles which are free. Sir, the farmers, the mechanics, the manufacturers, cannot be blind to such an insidious scheme. They will not fail to discover that the reductions of duty on a vast variety of articles produced wholly in this country are made under a false pretence of reducing the revenue ; and that the restoration of duties to free articles is also made under the delusive pretence of making taxes more equal. It will not escape their observation that this crafty plan of reducing revenue is apparently devised for the purpose of overstocking the treasury, and creating a surplus from year to year, so as to call for further and further reductions, till you come, as the politicians of South Carolina declare you shall, to twelve and a half per cent. Is it not plain that an equalization gives the least protection which industry can possibly have, unless you make the duties on articles which we do not produce, higher than you rate them on such as we do produce ? When you have arrived at twenty per cent., if there is a surplus, you have, I believe, the right to discriminate below that : but of what value is such a right ? Twenty per cent. ad valorem upon the foreign cost ; what is that ? Go to the officers of the custom-house in New York, who witness the daily frauds and impositions of importers. Go to the head of that establishment,

who, it is said, declared openly in this city, it was a railroad for legalized smuggling, and inquire what a twenty per cent. ad valorem duty, or any other ad valorem duty, is. And if they tell you the truth, it will be, that it is whatever the importer chooses to have it.

This bill, after we have made our descent, *facilis descensus Avernus*, carries us into the free trade system, which may be summed up under three heads :

1. All specific duties are abolished, and all duties are to be ad valorem ; all free traders, and especially the Yorkshire men and Lancashire men of England, have always earnestly contended for this. For what reason, it is difficult to imagine, unless it is because frauds are perpetrated with greater facility.

2. All duties are to be equal, and to be assessed upon all imports, except a few articles of little importance, and consequently the discriminating principle is abandoned.

3. The gradual reduction which is professedly made to reduce revenue, is applied to all articles, as well those on which no revenue is raised, as those which produce revenue ; thus tending, by every reduction, to bring the American producer into greater peril at every step. If this be not a total, unqualified abandonment of the protective policy, unless twenty per cent. is protective, then I know not what is an abandonment. The bill, it is true, provides that after we come to the twenty per cent. ad valorem, the duty is to be assessed on the valuation in the home market. About the meaning of this, however, there is already a dispute. The South say it means the price of the goods by the duties and charges ; that is, it means the foreign cost ; and a distinguished gentleman declared in debate distinctly, that he supported the bill upon that exposition of its meaning. If this be a true interpretation, the provision is worth nothing. That valuation is to be regulated by law, according to the terms of the bill, and what that regulation will prove to be, no one can foresee.

Sir, I regret that discontent and signs of violence have manifested themselves in this country ; but I am not disposed to meet it with a faint heart, or to falter for a moment in support of the Union and constitution. I would face these disturbers of the public tranquillity on their own ground, and accede to the general proposition that the revenue shall be reduced to the demands of the Government ; but the amount of expenditure shall be fixed by Congress, and not by South Carolina ; and the revenue should be raised in such a manner as to give the most efficient protection to American labor. For one, sir, while I would do South Carolina justice, ample justice, I would not destroy the Union by attempting to save it. I would not bring the power of Congress and the constitution into contempt, by establishing a precedent, that a little knot of uneasy, discontented politicians can, by threatening to dissolve the Union, make the Government itself

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bow down, humble itself in the dust, abandon its policy, and promise in future to give no offence. If these are the terms on which the Union exists; if this Government holds and exercises its powers upon such contingencies as these, I was about to say, the sooner the Union is at an end the better, for the rude breath of treason will dissolve it at any moment. But, sir, whether South Carolina is well or ill pleased, whether she declares herself in or out of the Union, I am not prepared, on any compromise, to give up the protective policy; and I do contend that an equalization of duties as low, or lower, than twenty per cent. protection, is incompatible. Yes, when you surrender the right to discriminate, you surrender all.

This is a bill to tranquillize feeling, to harmonize jarring opinions; it is oil poured into inflamed wounds; it is to definitively settle the matters of complaint. What assurance have we of that? Have those who threatened the Union accepted it? Has any one here risen in his place, and announced his satisfaction and his determination to abide by it? Not a word has been uttered, nor any sign or assurance of satisfaction given. Suppose they should vote for the bill; what then? They voted for the bill of July last, and that was a bill passed expressly to save the Union; but did they not flout at it? Did they not spurn it with contempt? And did not South Carolina, in derision of that compromise, nullify the law? This is a practical illustration of the exercise of a philanthropic spirit of condescension to save the Union. Your folly and your imbecility was treated as a jest. It has already been said that this law will be no more binding than any other, and may be altered and modified at pleasure by any subsequent Legislature. In what sense then is it a compromise? Does not a compromise imply an adjustment on terms of agreement? Suppose, then, that South Carolina should abide by the compromise while she supposes it beneficial to the tariff States and injurious to her; and when that period shall close, the friends of protection shall then propose to re-establish the system. What honorable man, who votes for this bill, could sustain such a measure? Would not South Carolina say, you have no right to change this law, it was founded on compromise; you have had the benefit of your side of the bargain, and now I demand mine. Who could answer such a declaration? If, under such circumstances, you were to proceed to abolish the law, would not South Carolina have much more just cause of complaint and disaffection than she now has?

It has been said, we ought to legislate now, because the next Congress will be hostile to the tariff. I am aware that such a sentiment has been industriously circulated, and we have been exhorted to escape from the hands of that body, as from a lion. But, sir, who knows the sentiments of that body on this question? Do you, or does any one, possess any information which

justifies him in asserting that it is more unfriendly than this House? There is, in my opinion, little known about this matter. But suppose the members shall prove as ferocious towards the tariff as those who profess to know their opinions represent, will the passage of this bill stop their action? Can you tie their hands? Give what pledges you please, make what bargains you may, and that body will act its pleasure without respecting them. If you fall short of their wishes in warring upon the tariff, they will not stay their hand; but all attempts to limit their power by abiding compromises, will be considered by them as a stimulus to act upon the subject, that they may manifest their disapprobation. It seems to me, therefore, that if the next Congress is to be feared, we are pursuing the right course to arouse their jealousy, and excite them to action.

Mr. Speaker, I rose to express my views on this very important question, I regret to say, without the slightest preparation, as it is drawn before us at a very unexpected moment. But, as some things in this bill are at variance with the principles of public policy which I have uniformly maintained, I could not suffer it to pass into a law without stating such objections as have hastily occurred to me.

Let me, however, before sitting down, be understood on one point. I do not object to a reasonable adjustment of the controversies which exist. I have said repeatedly on this floor, that I would go for a gradual reduction on protected articles; but it must be very gradual, so that no violence shall be done to business; for all reduction is necessarily full of hazard. My objections to this bill are not so much against the first seven years, for I would take the consequences of that experiment, if the provisions beyond that were not of that fatal character which will at once stop all enterprise. But I do object to a compromise which destines the East for the altar. No victim, in my judgment, is required, none is necessary; and yet you propose to bind us, hand and foot, to pour out our blood upon the altar, and sacrifice us as a burnt-offering, to appease the unnatural and unfounded discontent of the South; a discontent, I fear, having deeper root than the tariff, and will continue when that is forgotten. I am far from meaning to use the language of menace, when I say such a compromise cannot endure, nor can any adjustment endure, which disregards the interests and sports with the rights of a large portion of the people of the United States. It has been said that we shall never reach the lowest point of reduction, before the country will become satisfied of the folly of the experiment, and will restore the protective policy; and it seems to me a large number in this body act under the influence of that opinion. But I cannot vote down my principles, on the ground that some one may come after me who will vote them up.

Mr. Speaker, I have done my duty, in an imperfect manner, I confess; but I perceive it is

in vain to discuss the matter, and I will detain the House no longer.

Mr. H. EVERETT asked the attention of the House for a few minutes. He said he was unwilling that his dissent should be given by a mere silent vote. The gentleman from Kentucky (Mr. LETCHER) had said the House had had ample time to examine the bill, and he presumed the minds of the members were made up. It was true that the Senate bill had been laid on their tables some days ago: the amendments which had since been made in the Senate were adopted in the bill now before the House; these, he admitted, had improved the bill, but still had not rendered it satisfactory to him. For one, Mr. E. said, he did not complain of want of time; he had formed an opinion, and that opinion he now rose to express. He considered the bill, as originally reported in the Senate, as a total, an absolute abandonment of the protective system after 1842—at best, it was but a lease to the manufacturers for seven or eight years, or, perhaps, more properly speaking, a notice to wind up their concerns within that time: their destruction was slow, but sure. The existing protection was to go down, down, from year to year, until the end of the term, when the existing establishments were to be abandoned by the Government: he said the existing establishments, for new ones could not be expected. Prudent capitalists would not adventure in a sinking concern. About the same time was given that was allowed the bank to wind up; and were theirs a mere money business, they would have less reason to complain; but, unfortunately, their capital was fixed, and must be sacrificed. Factories and machinery were of no value unless in operation. The owners of flocks were not in a much less hopeless condition. He repeated that the bill, as originally laid on their tables, abandoned, totally abandoned, the protective policy. It reduced all duties to the same level, twenty per cent. Even the principle of discriminating duties was abandoned. In its present form, he admitted that principle was faintly perceptible. "Congress were not to be prevented from altering the rates of duties on articles which are now subject to a less duty than twenty per cent. in such manner as not to exceed that rate;" that is, they may raise or lower the rates of duties on the unprotected articles, but may not raise the duties on the protected articles above twenty per cent. This is the only discriminating principle now in the bill; and this, poor as it was, he should show was wholly illusory; that the wants of the Government would require the full duty of twenty per cent. on the unprotected articles. The change of the foreign for the home valuation, he admitted, was a valuable improvement, though its principal value must, in a very considerable degree, if not wholly, depend on the regulations which "may be hereafter established by law." The gentleman from Kentucky had echoed the cry of alarm which had been heard from

another quarter, that the protective system was in danger; that the next Congress would prostrate it. Such alarms tended to create the peril they announced. That system, in his opinion, had no greater peril to encounter than the one of which St. Paul complained as the chief of perils. He was willing to trust it to the next Congress: they, he trusted, would protect the great interests of the country. This *projet* had come upon the manufacturers from an unexpected source: the blow had not been anticipated from that quarter. If there should be a majority in the next Congress against the protective policy, the manufacturers, the farmers would submit with what grace they may. If the system should then fall, it would fall under the superior force of the enemy. But, said Mr. E., the occasion had excited feeling—better, perhaps, suppressed than uttered. He had heard it said, out of the House, that we were only bending to the blast; that we should right when it had passed over us. But was such a forecast just? Should not they who present, and they who accept this bill as a measure of conciliation, do it in good faith, without mental reservations? For one, he did not join in the offer, nor would he pledge himself or his constituents to abide by it. He would ask the gentleman from Kentucky what would be the financial operation of the bill? What would be the amount of revenue accruing under it, particularly in 1841 and 1842—the period when it was to settle down as the revenue system of the Government? These were the periods to which the manufacturers would look (he would not say they had been encouraged to look) for the restoration of the protective system. Taking the excessive importations of 1831 as the basis of calculation, the amount of the proposed reduction of duties on the protected articles (paying over twenty per cent.) would be nearly twelve millions, (\$11,924,000;) the whole amount of the customs, in 1841, would be between ten and eleven millions, (\$10,846,000;) and after the final reduction in 1842, about seven millions, (\$7,268,000.) How would the deficiency of revenue be supplied? The last section proposes it should be supplied by raising the duties on the dutiable, unprotected articles up to twenty per cent. This would give short of eight millions, (\$7,679,000;) making the whole revenue from the customs less than fifteen millions, (\$14,947,000.) What then becomes of the discriminating principle of protection? If additional revenues are to be raised, in what manner could it be done? It must be done either by raising the duties on the protected articles, or by laying duties on the articles now free.

Should this bill pass, said Mr. E., he should be almost prepared to concur in the opinion he had heard expressed in the House this morning, that it would do away the necessity of passing the enforcing bill. The duties were eventually to come down to the same rate on all dutiable articles—to twenty per cent., the South Car-

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olina standard. With her it was only a question of time, unless she should still insist that there should be no articles imported free of duty. This was one of her unalterable resolutions. Mr. E. said he did not wish to prolong the debate. He had risen to state the light in which he had viewed the bill, and in which he thought it would be viewed by the country—as the ultimate abandonment of the protecting policy.

Mr. DICKSON also opposed the bill, and moved its postponement till to-morrow. Negatived.

Mr. LETCHER spoke in reply, and in defence of the bill; when the question was put on engrossing the bill for a third reading, and carried:

YEAS.—Messrs. Alexander, Chilton Allan, Robert Allen, Anderson, Angel, Archer, John S. Barbour, Barringer, James Bates, Bell, Bergen, Bethune, James Blair, John Blair, Boon, Bouck, Bouldin, Branch, Bullard, Cambreleng, Carr, Chinn, Claiborne, Clay, Clayton, Coke, Connor, Corwin, Coulter, Craig, Creighton, Daniel, Davenport, Warren R. Davis, Doubleday, Draper, Felder, Findlay, Fitzgerald, Gaither, Gilmore, Gordon, Thomas H. Hall, William Hall, Harper, Hawes, Hawkins, Hoffman, Holland, Horn, Howard, Hubbard, Irvin, Isacks, Jarvis, Jenifer, Richard M. Johnson, Cave Johnson, Joseph Johnson, Kavanagh, Kerr, Lamar, Lansing, Lecompte, Letcher, Lewis, Lyon, Mardis, Mason, Marshall, Maxwell, McIntyre, McKay, Newton, Nuckolls, Patton, Plummer, Polk, Rencher, Roane, Root, Sewall, William B. Shepard, Augustine H. Shepperd, Smith, Southard, Speight, Spence, Standberry, Standifer, Francis Thomas, Wiley Thompson, John Thomson, Tompkins, Tracy, Vance, Verplanck, Ward, Washington, Wayne, Weeks, Elisha Whittlesey, Campbell P. White, Wickliffe, Worthington—108.

NAYS.—Messrs. Adams, Heman Allen, Allison, Appleton, Arnold, Babcock, Banks, Noyes Barber, Barstow, Isaac C. Bates, Beardsley, Briggs, John Brodhead, John C. Brodhead, Bucher, Burd, Caboon, Chandler, Bates Cooke, Cooper, Crane, Crawford, John Davis, Dayan, Dearborn, Denny, Dewart, Dickson, Ellsworth, George Evans, Joshua Evans, Edward Everett, Horace Everett, Grennell, Hiland Hall, Heister, Hughes, Huntington, Ihrie, Ingersoll, Kendall, Kennon, Adam King, Henry King, Leavitt, Mann, McCarty, Robert McCoy, McKennan, Milligan, Muhlenberg, Nelson, Pearce, Pendleton, Pierson, Potts, Randolph, John Reed, Edward C. Reed, Slade, Soule, Storrs, Sutherland, Taylor, Vinton, Wardwell, Watmough, Wheeler, Frederick Whittlesey, Edward D. White, Young—71.

TUESDAY, February 26.

The Tariff—Compromise Bill.

The engrossed bill to reduce the tariff (as amended by the adoption of Mr. CLAY's bill of the Senate) was read a third time, and the question stated to be on its passage.

Mr. BURMAN, of Rhode Island, said: I have not risen, at this time, to enter into any extended discussion of the bill just now read to the House: it is my purpose to do no more than to pronounce an humble protestation against

the provisions of this measure; to state a solemn denunciation of the purposes intended to be effected by its enactment; and, in a few words, to express my utter abhorrence of the causes which, as I think, must have brought such a scheme before Congress.

I protest against this measure, because, like that which has been stricken out of the bill, to make room for its insertion, it proposes to provide for the wants of Government, but does not propose to make any provision for the wants of the nation. It calls on the people for money to feed that Government, and at the same time takes away that protection of their labors, by which the people have hitherto been enabled to feed themselves. Not less than one million seven hundred and fifteen thousand free white working men are annually employed in the agricultural, mechanic, and manufacturing labor of the Eastern, Northern, and Western States of this Union. That part of these men thus employed in mechanic and manufacturing labor, depend on that part of them employed in agricultural labor, in the same and other States, for a market for their fabrics; and a supply in return of food; of corn, wheat, flour, beef, pork, and other provisions, amounting annually to more than \$27,000,000. They also look to them, and to other producers in many of the States, for a further market for like fabrics; and expect, in exchange, the products of their lands and mines, equal to \$15,000,000 in amount annually. Those employed in the farming and mineral labors of these States, look to such as are engaged in these mechanic and manufacturing labors, for this market for their products, and therein for their supply, by this exchange of those various manufactured fabrics annually to this great amount.

By the destruction of this mechanic and manufacturing labor, men employed in agriculture, whether on their own lands, or farming the lands of others, must lose that market; and not only lose their annual supply of those fabrics heretofore purchased in it, but their annual production left on their hands for want of a market, must, to this amount, annually be utterly lost to them. For in no other market of the world could they sell their breadstuffs and provisions, their wool, their lead, their iron and steel.

This loss will take from those thus engaged in the labors of farming and the mines, not only the ability to obtain manufactured fabrics, but also the power to purchase and consume annually, as they do now, four or five millions in amount of sugar, produced in Southern Georgia and Louisiana; and thereby leave this production, to that amount, on the hands of the planters of those States. There it must perish, unless they can find a market for it in Europe, where such a market for United States sugar has not, I believe, ever been found to the amount of ten hogsheds in any one year.

I pass over the rice and tobacco, drawn from the South by the owners of manufacturing cap-

ital in the North; nor mention the cotton, on which their great fabrics now so much depend; in all amounting probably to \$10,000,000 annually. This omission is made because the great, rich, and independent manufacturing capitalists of the North can and will stand their ground, though they will stand that ground alone, under the provisions of this bill. When those provisions shall be carried out into perfect operation, as they will be at the end of ten years, the great, independent, manufacturing capitalist will then not depend on the South for the raw materials which he can then bring from any country at a mere revenue duty of twenty per cent.; a tax of no importance to him, because it must be paid finally by the domestic consumer of his fabric. Nor will the Southern planter then depend, for he does not now depend, on the domestic market, for the sale of his great staples. These two classes, the rich owners of great manufacturing capital in the North, or of capital in land and slaves in the South, are perfectly independent of each other's production, by the provisions of this bill; and may stand with perfect impunity, under those provisions of this measure, which must be so ruinous to all those, at this time, operating with that limited capital, or employed in those various labors, now encouraged or protected by that system of laws intended to be destroyed by these provisions.

How do the provisions of this bill ensure the destruction of that system? By the utter abandonment of even the very principle of discriminating, countervailing, or protecting duties of impost on imported goods, wares, and merchandise. At the end of ten years these duties, that is, the whole system of imposts, are to be reduced to twenty per cent. ad valorem, and to stand at that rate upon all imported commodities, such as are produced in our own country, by our own domestic industry. So utterly is protection, in its very principle, abandoned by this bill, that if more revenue shall be wanted than may be obtained, by this rate of impost on protected commodities, such impost shall not be raised on such commodities above twenty per cent.; but such impost for such revenue shall be placed on tea, coffee, and other articles unprotected, because not produced in this country; and such impost may, for revenue, be raised up to twenty per cent. This bill, therefore, not only takes from all the free labor of the free States the whole benefit of the present system of encouragement and protection, but may, and doubtless will, in its progress, still further discourage such free labor by a heavy tax placed on the imported food of that labor; tea, coffee, and sugar—a tax from which the slave owners of the South will be exempted, in respect of all their labor; because neither tea, nor coffee, nor sugar, is ever consumed by the slaves.

This bill provides concerning all impost on any protected commodity, that whenever such impost exceeds twenty per cent. ad valorem, all such excess shall be divided into ten parts; and

that a tithe of this whole excess shall annually be taken away, until at the end of ten years no impost shall remain at a higher rate, on any commodity, than twenty per cent. on its value.

The taking away a tenth part of this protection, annually, will, in two or three years, so expose the middling interest men, concerned in manufactures, to the first effects of foreign competition, created by excessive importation, that they must give up the conflict, and submit to the ruin provided for them by this measure.

This will leave the war of the trade in the hands of capitalists, who can afford to lose; and, outliving those losses, which ruin the less wealthy, they will take all the benefits resulting to them, as the survivors of their ruin. That ruin, and the certainty that all protection will terminate at the expiration of ten years, will discourage all owners of small, or middling, or even great capital from embarking in these manufactures, and will leave the whole concern to the over-wealthy now engaged in this business; these fortunate men, united with foreigners, will continue the trade, and supply the market. They will do this at such a rate of cost to the consumers in our country, as may be charged upon all manufactured fabrics sold in our market by the producers of such fabrics in foreign countries. Whatever the cost of them may be in England or elsewhere, to that cost will be added the cost of importation, not less than fifteen per cent., and in like manner the amount of impost, twenty per cent., will so much further enhance the whole cost to the American consumer. The wealthy capitalists, the only surviving manufacturers of the North, then exempted from all domestic, will receive the full benefit of foreign competition—a competition which, in its first movements, by excessive importations, will have ruined all competitors of limited capital in our own country; and will thus finally enable those men, more abundant and independent in their means, to share with the wealthy manufacturer of other nations the spoils of our consumption, taxed, as it must then be, by the final effects of this measure, with not less than thirty-five per cent. more in amount, for our whole supply of manufactured fabrics, than would have been their cost, if wholly furnished by domestic production, under that system of encouragement and protection, and domestic competition, which the provisions of this bill are intended to destroy.

This evil will fall on the whole country, and will be a just retribution for the cruel and unrelenting ruin which this profligate measure will have brought on the many hundreds of thousands of free white working men, now employed in the mechanic, manufacturing, and agricultural labors of the free States. When the domestic manufacturers, the owners of the mills and machines, by the working of which those men now earn their bread, and that of their families; when these owners find they must surrender a tenth part of their protection—a tenth

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part of their impost over and above twenty per cent. of the whole, they will call on their working men to surrender a like tenth part of their wages, or to leave their employment. When will this first call be made? In the very dead of the next winter, when they and their families must perish or have employment. It will be repeated annually at that season. They will surrender, rather than hear their children cry for bread when they have none to give them. This demand on labor for a reduction of wages will be repeated once a year, just as often as this bill makes a like reduction of the rate of that impost by which manufacturing labor and capital are now protected. At the end of ten years, when the whole protection is taken away, the wages of labor will be reduced to twenty per cent. of its present amount. What a consummation of what a scheme!

Mr. FOSTER said he considered the reduction too slow, and the period for arriving at the revenue point too distant. He feared, also, that in the intervening time, by reason of the reduction being so gradual, there would be a large accumulation of surplus revenue in the treasury, the scramble for which was easily foreseen; and the corrupting tendency of which must be obvious to all.

Mr. F. also protested against the pledge which seemed to be contained in that part of the bill which provides that "the duties, as modified by this act, shall remain and continue to be collected" until June, 1842. We had no power to bind our successors, and Mr. F. would not bind his constituents, or even himself, by any such engagement as that which is alleged to be thus implied. He had great difficulty in bringing his mind to the conclusion to vote for the bill, and he voted for it solely upon the ground of an adjustment of the agitating and distracting question which had brought this Union to the verge of dissolution. As a compromise, he considered it far short of what the South was entitled to; but he was prepared to concede much; to make a willing sacrifice to preserve the Union of these States, and to restore peace and harmony to the country. He had therefore expressed the opinion, that this object could only be effected by a spirit of mutual conciliation and concession, and it was by this spirit that he was now actuated. In pursuing this course, he had no doubt he represented truly the feelings and opinions of his high-minded and patriotic constituents; but he had no authority to pledge them to any future course of measures, nor would he do it. This bill he regarded as an experiment; and if in its operation it should be found to be defective, it will be subject, like all other laws, to repeal or modification.

Mr. DENNY said that he owed thanks to the gentleman from Georgia for the frank and candid expression of the sentiments which he had now given to the House. It now appeared that this bill was considered by the South as a mere experiment, which might or might not prove satisfactory on trial. And was that

House to experiment on the livelihood of millions of men? Were they to be driven into the adoption of such a course by a faction existing in a single State? A gentleman from Kentucky, whom it would not be parliamentary to name, had, out of benevolent feeling, proposed the present bill as a compromise of the existing duties between the North and the South. But did gentlemen from the South say that they would accept the bill as a compromise? Not at all. The House had just heard one of those gentlemen declare that he considered the proposition as a mere experiment. Had it been demonstrated to the House that the South would accept the bill, and would rest satisfied with it? It had not. Let the House pass this bill, and next year the Southern interest would come up and drive the House from its position. Once give them the power, and every thing like compromise would depart forever. The State which Mr. D. represented was to be the chief sufferer in this arrangement: it was sentenced to die. But was it certain that they should perish by so slow a death as this bill had provided for them? Was the Kentucky gentleman able to restrain and hold down the fiery spirits of the South? When they came to press the advocates of American industry to the wall, would it be in the power of that gentleman to hold back their fury, and rescue the manufacturing interest from their remorseless blow? He believed not. The bill did nothing more than to hold out to foreigners all that protection and encouragement which ought to be reserved for our own citizens. If the object was to compromise with foreigners, the British themselves could propose no better terms to advance and secure their own prosperity. They would willingly take this bill, because they would see in it the slow, but certain death of the manufactures of our country. Its provisions would give vitality and strength to their own industry; it would diminish the numbers in their pauper houses; it would make paupers in this country, by feeding the paupers of Great Britain. The friends of the protective system had little expected such a blow from the quarter from whence it came. From the hand of their avowed opponents they might have been prepared to meet it. If it came from them, however it might prostrate the best interests of the country, it might be better borne; but it came with added force from the hand of one who had been himself the strongest advocate of the system. The American people had not looked for any thing like this. They knew that a bill to reduce the tariff had just passed, and they were willing to wait another year to see what the effect of that bill would be; but this was not permitted them. They must here take their leave of the protecting policy. Its knell sounded in this bill, and he had only to regret that the task had not fallen to abler hands of pronouncing its funeral oration. The system of internal improvement was also to be murdered; and where the devastation was to stop,

who could tell? But one consolation still remained. The country had its own relief in its own hands. Freemen were not bound, like slaves, to work upon a plantation all their lives, while their masters disposed of them according to their pleasure.

There was one provision in this bill which ought to alarm every man that was interested in the American system. It proposed eventually to equalize all duties, reducing them to twenty per cent. ad valorem. Here was deception on the very face of the bill. All ad valorem duties were necessarily deceptive. A specific duty was known; everybody knew, at once, what they had to pay; but ad valorem duties varied continually. The bill laid a twenty per cent. duty on articles of all sorts. All sorts of mechanical work were to be brought down to twenty per cent., while some of them were produced by machinery, and others not. The same machinery worked as well here as it did in Europe, and our mechanics worked at as cheap a rate; but to meet the European, they must work on half wages, because the foreign operative obtained half his living from the parish.

Where was the discrimination under such a bill? The owner of a cotton mill, with his power looms, was to have a protection of twenty per cent., while the poor weaver who sat, from day to day, toiling at a hand loom, obtained no more. In England, such a man obtained the residue of his living out of the parish. Was this pauper system of England to be combined with the slave system of South Carolina, against the free labor of the United States? Must American industry be thus nullified? Must the manufacturers submit, and see all their workshops closed within ten years? Could it be expected that, with such a prospect before them, those who now contemplated investing their capital would continue such a purpose? It could not. The moment the passage of this bill was announced, the whole manufacturing enterprise of the country would at once be paralyzed. The emulation would be, who should wind up their affairs the soonest. As one factory went down after another, the monopoly would increase, from year to year, until, at length a few overgrown establishments would be left standing in solitary opulence, melancholy monuments in the wide-spread ruin.

Mr. DANIEL said: The gentleman from Rhode Island, (Mr. BUREAU) said that this bill was virtually an abandonment of the protective system. The bill allowed the manufacturers a little lifetime to come down to the point to which all agreed that they must at last come, viz., to a revenue duty. How was it an abandonment of protection? He should think that any man, in seven years, with a protection of sixty per cent., might make his fortune. What farmer made half as much? What farmer made twenty per cent. upon his capital? No, he did not make ten per cent., nor five either. But this bill was willing the manufacturers should enjoy their fifty or sixty per cent. until

it was gradually reduced to a permanent tax upon the people of the United States of twenty per cent. for the support and encouragement of manufactures. It really seemed to Mr. D. that no man ought to raise his voice against it. It was a free gift—a mere gratuity. What had the great West to do with manufactures? What benefit was it to Kentucky that the manufacturers of Rhode Island should get a bounty on their industry? They paid a million and a half into the treasury, and got about six or seven hundred thousand dollars out of it, by which they gained an annual loss of about seven hundred thousand dollars. Still they supported the tariff. They supported it because they supposed it was for the benefit of the country. They were not willing, however, to press the system to the separation of the Union. Rather than such should be the result, they were ready to abandon it altogether. He did not believe that one-fifth of the people of the nation would give up the Union to save the tariff. The individual who had recommended this compromise had acted on other principles. He chose rather to retire than to remain in public life at any such cost. He did not seek any office. Mr. D. trusted the people of this country would ever continue to remember him as having proved their political saviour at the two greatest crises the nation has yet known. Who had it been that had saved the country when the Missouri question threatened to rend the Union; and who had now saved it from war and bloodshed? The same same individual had effected both these deliverances.

Mr. STEWART was opposed to all further legislation, at this time, on the subject of the tariff. This Congress had already acted upon the subject. We have passed one law, and are *functus officio*. If the act of the last session, passed with so much unanimity as a final adjustment of this vexed question, is again to be disturbed, let it be by other hands—let us not be driven by a handful of nullifiers into a repeal of our own legislation before it has gone into effect, and before any one can foresee whether its operation is to be beneficial or injurious. If we degrade ourselves by such an act of inconsistency, the world can assign but one reason for our course, and that will be, that a majority of two to one have been compelled to surrender their own deliberate judgment to the threats of a few nullifiers, thereby recognizing and establishing nullification, not only as a peaceable, but as an efficient and constitutional remedy, proclaiming to the world that the United States is not a Government, but a thing to be governed by the passions, whims, and caprices of each and every State in this Union. What, sir, is our present position? Last session we passed a tariff, as a final compromise and settlement of the question. South Carolina was dissatisfied, and she has nullified it; she says her will, and not that of the Union, shall govern. The President says the law shall be executed, and South Carolina shall submit—we join the nulli-

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fiers, repeal the law, and South Carolina triumphs; Rhode Island, or some other State voting against the repealing act, next nullifies, puts herself on her sovereignty, demands the repeal of this law; and, upon the authority of the precedent now established, you must again repeal this act, and so on, as long as any State in the Union is dissatisfied. The constitution and Government would be by such doctrines subverted and overturned; it could not be preserved, and would not be worth it if it could. Our Union would be a rope of sand, a cobweb to be broken by every breeze. Until South Carolina, therefore, repealed her ordinance, and laid down her weapons of rebellion, he, for one, was opposed to all legislation on this subject. But this objection out of the way, and no sufficient or even plausible reason had been assigned for "posting with such dexterity" to the repeal of our own deliberate act. What were the reasons assigned? Sum them all up, and they were embraced under three heads: 1. To reduce the revenue; 2. To reduce taxation; and, 3. To appease the nullifiers. That the act of the last session would produce too much revenue, was an assumption, he said, unsupported by evidence. The act has not yet gone into operation. No one could say what was to be its effect upon the revenue. He believed that, instead of a surplus, there would be a deficiency of revenue. There is no surplus now, we all know. That there would be a surplus hereafter, no one could foretell.

Mr. S. said he would not trespass longer on the time and attention of the House, but he did hope that gentlemen would not be so soon driven from the act of the last session by a few disappointed and ambitious men in the South—men who seemed determined to rule or ruin the country. To yield to their dictation, would not only be disgraceful but ruinous in the extreme. These people of the South have already been spoiled by indulgence; they cannot bear to see any prosper but themselves. What has been their course, and what has brought about the present alarming and unhappy state of things? Let us go back a few years and inquire. Let us see how Southern jealousy has operated, and how it has been indulged. Having by non-intercourse, embargoes, and war, broken up the navigation of the North, and compelled them to turn their capital and industry to manufactures, they next determine to break down manufactures; and, to accomplish this, what is the plan? First, to hasten the payment of the public debt, and then to repeal the duties, as no longer necessary. And how is the payment of the debt to be hastened? First, internal improvements must be arrested to swell the annual surplus applicable to the payment of the debt. They are indulged in this, and internal improvements have been arrested. Next, the act limiting the sinking fund to ten millions a year must be repealed, and this was also done. Next, the United States Bank, being suspected of affording capital and other facilities to the

manufacturing States, must be put down also. They were again indulged last session. The tariff was attacked and reduced six or eight millions; but, like spoiled children, they grow worse from indulgence. They now demand that the protective principle shall be utterly abandoned, and the whole people of the Northern and Middle States sacrificed at once, or they will dissolve the Union! Grant this, and next we must elect a President south of the Potomac, or we shall have another nullifying ordinance—more threats of civil war and bloodshed; and where was this system of concession to end? It would end only when all political power was surrendered to the South, and the free people of the Northern and Middle States reduced to a condition more miserable and degraded than that of the Southern slave. It was time to stop and tell these gentlemen plainly that we will go no further, and to play out their game of nullification and civil war if they dare—civil war! Where is it to be? and who is to suffer by it? It will be confined to South Carolina. It will be a war between her own people, the union men and nullifiers, and the former would be able to put down the latter with little or no aid from the Federal Government. But why should we of the Northern and Middle States sacrifice our people by repealing the tariff to prevent these madmen of South Carolina from cutting each other's throats? But there was no danger; they were not rash and crazy enough to do so. There can be no war in the North; it would be entirely a Southern affair. They would have all the glory and all the sufferings of this war among themselves. All would commiserate and none envy their condition under this glorious reign of nullification.

Mr. SUTHERLAND would put it to all who heard him, whether a bill presented in the manner, and under the circumstances that this had been, ought to pass. It was out of all reason. It was against the course of all legislation. The ink was hardly dry with which a bill had been engrossed and passed at the last session, settling this very question, and settling it by compromise. Would the House be doing justice to those who had relied upon that act, so soon to overturn what had been so deliberately resolved upon—a law which had commanded the votes of two-thirds of that House, and two-thirds of the Senate? But he was told that the bill must pass, because a spirit of opposition had appeared in South Carolina, and was running through all the Southern country, which nothing could allay but the passage of such a bill. On that subject he must be allowed one word of reply. He asked, where did this whole protecting system come from? With whom did it originate? Where was it born? The system was started in South Carolina. It had originated in the early days of this Government, and it had been sustained in Virginia, by one of the ablest statesmen that ever graced that proud and ancient commonwealth. He meant Thomas

Jefferson. Yes, it was Mr. Jefferson, who had given it his most decided sanction. He had appeared in his native State, on our great national anniversary, in 1808, dressed from head to foot in homespun. All the military, horse and foot, had paraded in uniforms of American manufacture. And the reverend clergy were clad in the same. And so entirely was the system approved of, that prayers were offered up on that occasion for its maintenance and perpetuity. This House was asked to repeal the protective system, although the very people who brought the system into being, now declared it to be unconstitutional: and although there had not lived scarce a distinguished man, since the revolution, who had not been, or was not now, the approver and advocate of the American system, and its constitutionality. It had been a member from South Carolina, a Mr. Burke, who had first proposed in that House a protecting duty upon hemp, to enable the people of his State to raise that commodity upon their rice grounds. With this view the duty had been imposed. The same individual had then asked a protecting duty upon indigo, all for the benefit of his State and the South; and this duty had, in like manner, been laid on. But now, South Carolina had discovered that every protecting duty was a flagrant and alarming violation of the constitution.

"We think our fathers fools—so wise we grow;
No doubt our wiser sons will think us so."

At the first session of the first Congress, one of the signers of the constitution had offered an address to George Washington, as being the devoted friend to the whole system, which address had been unanimously adopted, by men who were themselves the fathers of our revolution. Southern gentlemen might rave as they would. The constitutionality of that system stood beyond their power. In a debate which had taken place in the first Congress, as to the duty proper to be laid upon tobacco, the celebrated Roger Sherman, a member from Connecticut, had proposed to lay sixpence a pound on that article, avowedly as a prohibition. This was carrying protection to its extreme; and had a single Southern man so much as whispered an objection? Not one. Why should the law be altered now? Protection was as constitutional at this day as it had been at that day.

Mr. BATES, of Maine, should vote for this bill, not because it was what he wished, but because it was the best thing that could be procured. The bill proposed to impose a less degree of taxation on the country, so soon as January next. Had this bill been offered to him at the commencement of the session, he should have felt himself bound to reject it. Had himself or any of his friends proposed such a measure to the South at that time, he should have felt that he was offering them an insult. But circumstances had since occurred which showed that now the South was willing to accept the bill as a compromise that would settle the dis-

tracted state of the country. Such being the case, he was bound to accept it. He rejoiced to find, that somehow, or somewhere, an arrangement had at length been effected. The fact proved either that the injuries complained of by the South were not so serious as they had been represented to be, or that the South had been governed by a laudable patriotism, which led them to assent to an offer which came short of that which they had a just right to demand. He hoped and believed that it was from the latter. He would now say a word or two on the subject of pledges. The House had been told that, having voted for the bill of 1822, they were pledged to leave the subject of the tariff at rest. But Mr. B., though he had voted for that bill, had not voted for it as the best that was possible: he had voted for it as the best he could then get: but he had not considered himself as bound never to get a better, when it should be in his power. He had never pledged either himself or his constituents. Whether it was or was not, in the opinion of some, implied that the system was to remain untouched for eight or ten years to come, was a matter of mere moonshine to him. He had never pledged himself for a single session ahead. His successors, he knew, would act as he had acted, independently.

Mr. PENDLETON, of New York, viewed the bill as a compromise. It was an exchange of intermediate protection for ultimate reduction: and those who voted for it voted for it as a whole. There was no reason why gentlemen who voted on one side should be more reflected on than those on the other. Gentlemen who chose to reject the compromise could do so; but those who took it, took it as a whole. They consented to the continuance of protection for a certain course of years for the sake of ensuring its reduction in the end. In his judgment, this was altogether illusory, because this Congress could not bind its successors; for himself he never would consent to take a measure so entirely uncertain.

Mr. McDUFFIE did not believe that the bill made all the concession to the demands of the South which justice required; much more ought to have been allowed. The South had a right to demand more, much more. But he had nevertheless made up his mind to vote for the bill. He wished to give quiet to the country; he believed this bill would give quiet to the country: and in that view he should give it his vote.

Mr. BATES, of Massachusetts, had no inclination to go into a discussion of the bill, but he wished to state the grounds upon which he should vote against its passage, that he might stand fairly before his constituents, and before the country, upon this deeply interesting subject. He did not share in the apprehension expressed, that the South would not abide by the provisions of the bill. He had no fear on that score, for the bill is an abandonment—gentlemen may say what they will to the contrary—

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the bill is an abandonment of the protective principle, progressively and slowly, but certainly and fatally. Nor had he any disposition to join in the denunciations, although he shared largely in the regrets of the occasion. Had the cup which the friends of the tariff are called upon to take been mingled by other hands, he could have borne it; but, presented and forced upon them as this has been, it becomes as unpleasant and ungrateful as unexpected.

He would state, that he might be distinctly understood, that the advocates of the protective system admit—

1st. That the revenues of the Government ought to be no more than the wants of the Government; that they do not ask, by way of protection, for a dollar beyond this. But,

2d. They maintain that, so far as the revenue is derived from impost, it ought to be from duties imposed for protection. And,

3d. That, in the apportionment and assessment of duties, reference ought to be had to the condition and wants of the interests to be protected. Acting upon these principles, he said, there would be ample means of protection for all needed purposes; but, in his opinion, the bill under consideration was in utter disregard of every one of them.

So far as derivable from duties on protected articles, this bill will augment the revenue, and thus will diminish protection, while it will increase the demands upon the people.

The duties upon protected articles, it will be observed, are to be progressively reduced to twenty per cent. in 1842, and afterwards at pleasure; but, in no event, peace or war, is the progress of reduction to be stayed; and in no event, after 1842, is the rate of duty to exceed twenty per cent. The bill contains a formal enactment, and gives an express pledge to this effect. And both before and after 1842, in case of a deficiency or excess of revenue, recourse is to be had to such unprotected articles as are not made free by the bill. This he considered an abandonment of the great protective principle. It is an express agreement that the duties for protection shall not exceed twenty per cent., and that duties for the mere purposes of revenue may be imposed upon unprotected articles when they are needed for protection. It is, therefore, not only an abandonment of the principle, but a limitation upon the power. The duties upon the unprotected may transcend the duties upon the protected articles themselves.

But how, he inquired, does this bill propose to reduce the duties? It changes all the specific into ad valorem duties after 1842. In the mean time it reduces them equally, without any regard to the magnitude or wants of the different interests, their importance in war or peace, their character as connected with agriculture or commerce, with necessities or luxuries, with the capabilities or exigencies of the country; it reduces them all as a gardener trims a hedge, cutting every thing to the same level, without

reference to any thing but uniformity. Whatever may be the legislation of foreign Governments, whatever the competition and power brought to bear upon a given department of industry, this bill fixes its position and condition immovably, and leaves it at the mercy of those who may choose to assail it, and in any way they choose. Mr. B. said that he would detain the House no longer. The victim is bound, and he would not delay the sacrifice. But he could have wished the offering had been made by other hands.

Mr. WILLIAMS moved the previous question, and the House sustained the motion: Yeas 93, nays 65.

The previous question was carried: Yeas 109, nays 85.

The main question, viz., "Shall the bill pass?" was then put and decided by:

YEAS.—Messrs. Adair, Alexander, Chilton Allan, Robert Allen, Anderson, Angel, Archer, Armstrong, John S. Barbour, Barnwell, Barringer, James Bates, Bell, Bergen, Bethune, James Blair, John Blair, Boon, Bouck, Bouldin, Branch, John Brodhead, Bullard, Cambreleng, Carr, Carson, Chinn, Claiborne, Clay, Clayton, Coke, Connor, Corwin, Coulter, Craig, Creighton, Daniel, Davenport, Warren R. Davis, Doubleday, Drayton, Draper, Duncan, Felder, Findlay, Fitzgerald, Foster, Gaither, Gilmore, Gordon, Griffin, Thomas H. Hall, William Hall, Harper, Hawes, Hawkins, Hoffman, Holland, Horn, Howard, Hubbard, Irvin, Isaacs, Jarvis, Jenifer, Richard M. Johnson, Cave Johnson, Joseph Johnson, Kavanagh, Kerr, Lamar, Lansing, Lecompte, Letcher, Lewis, Lyon, Mardia, Mason, Marshall, Maxwell, William McCoy, McDuffie, McIntyre, McKay, Mitchell, Newnan, Newton, Nuckolls, Patton, Plummer, Polk, Rencher, Roane, Root, Semmes, Sewall, William B. Shepard, Aug. H. Sheperd, Smith, Speight, Spence, Stanberry, Standifer, Francis Thomas, Philemon Thomas, Wiley Thompson, John Thomson, Tompkins, Verplanck, Ward, Washington, Wayne, Weeks, Elisha Whittlesey, Campbell P. White, Edward D. White, Wickliffe, Williams, Worthington—119.

NAYS.—Messrs. Adams, Heman Allen, Allison, Appleton, Arnold, Ashley, Babcock, Banks, Noyes Barber, Barstow, Isaac C. Bates, Beardsley, Briggs, John C. Brodhead, Bucher, Burd, Burgess, Cahoon, Chandler, Choate, Collier, Lewis Condict, Silas Condit, Eleutheros Cooke, Bates Cooke, Cooper, Crane, Crawford, John Davis, Dayan, Dearborn, Denny, Dewart, Dickson, Ellsworth, George Evans, Joshua Evans, Edward Everett, Horace Everett, Ford, Grennell, Hiland Hall, Hiester, Hodges, Hogan, Hughes, Huntington, Ihrie, Ingersoll, Kendall, Kenyon, Adam King, John King, Henry King, Leavitt, Mann, McCarty, Robert McCoy, McKennan, Mercer, Milligan, Muhlenberg, Nelson, Pearce, Pendleton, Pierson, Pitcher, Potts, Randolph, John Reed, Edward C. Reed, Russell, Slade, Southard, Stephens, Storrs, Sutherland, Taylor, Vinton, Wardwell, Watmough, Wilkin, Wheeler, Frederick Whittlesey, Young—85.

So the bill was passed, and sent to the Senate.

WEDNESDAY, February 27.

Revenue Collection Bill—Nullification.

The Senate's bill further to provide for the collection of the revenue (the enforcing bill) coming up,

Mr. VEEPLANCK moved that the consideration of that bill be postponed until the next day, in order that the House should take up the appropriation bills, several of which remained to be acted upon.

Mr. WICKLIFFE observed that there seemed to exist a disposition in the House to pass this bill; but he put it to gentlemen whether it was right and fair to postpone the consideration of it so far that those who might be opposed to its passage should have only time left them to say no, but not to state the reasons for their vote. The House was bound to allow at least time enough for a fair discussion of the bill.

Mr. CAMBRELENG said: This was the last day of the session on which bills could be discussed. The appropriation bills would have to be read a third time to-morrow—to postpone would be to destroy them.

The motion to postpone was decided in the negative: Yeas 70, nays 127.

Mr. CARSON said that the bill being now before the House, he wished to offer a few ideas upon some of its provisions.

From the obvious majority against him, it would have been useless for him to persevere in attempting to get the bill committed; and therefore it was that he had withdrawn his motion. He now rose to perform a solemn duty; such a one as he had once hoped would never have been his lot, and one which filled him with the deepest regret: it was to part with a number of gentlemen with whom it had been his pride and pleasure heretofore to act. But the hour was come in which he was called to separate himself from them. He regretted this the more, as he knew that it would operate as a banishment of himself from the regard of a man whom he had delighted to honor; a man whom he had served, if not with as much ability, at least with as much honest zeal as ever son felt toward the person and the reputation of his own father. Never had his heart known such a feeling of devotion toward any human being, unconnected with himself by blood, as toward Andrew Jackson. But he had arrived at the spot where they must part. Lear had banished his Cordelia, and had divided his estate between Regan and Goneril, because they were more vociferous in the profession of their attachment than his poor Cordelia. He had banished, too, the honest Kent. Yet Mr. C. felt it to be difficult, when the affections of the heart had once been so devoted, to indulge in any expression of censure, even where the object of those affections was most in error. He felt, on the contrary, that he would rather hide such things from the world, and let them be consigned to perpetual oblivion. But this bill—how could it be hidden? He met it on his

way; he had not gone to seek it; it met him, and he could not avoid it. God knew what had been his feelings on first perusing it. He saw at once that the line of separation was drawn forever. The fault was not his. The measure had broken upon the nation like a thunder-clap; it was not merely Mr. C.'s misfortune, but that of the whole American people. With the popularity he enjoyed, that individual could have done more good than any other man since the days of Washington. But, in proportion to the power of doing good, was the corresponding power of doing injury. That injury was now about to be inflicted. It would be inflicted by this bill. Mr. C. might be mistaken in this foreboding; and when he saw himself separated from so many of his friends in relation to it, he wished he could believe that he was; but he could not see such a bill about to pass without offering some feeble opposition to it. He would remind gentlemen with whom he had formerly acted, and who now were prepared to vote for this bill because it had the Executive recommendation, of some things that seemed to be forgotten. He was well aware that they acted under a high sense of duty, and considered themselves as having a high moral duty to perform. But he would recall their recollections to the sessions of 1826-7 when a gentleman was President who now sat near him in that House, (Mr. ADAMS.) The Executive had sent, during that session, a message to the House having reference to the execution of a treaty with the Creek Indians. In that paper he had very strongly squinted at the employment of force. He had spoken in it of a "superadded obligation" arising from his oath of office. Mr. C. and his coadjutors had pounced upon the passage as hungry pikes would pounce upon a roach. They were all ready in a moment, with their gaffs on, to fly at the man who had presumed to send such a message to that House.

[Mr C. here quoted the message.]

In the first part this paper said that the author abstained from using the force in his control, because he knew that those who opposed the execution of the treaty were acting under the laws of a sovereign State, and believed that they were doing their duty. Now, Mr. C. would say to gentlemen who had voted with him on that occasion, that before they voted for the present bill they ought to go to that gentleman and ask his pardon. It was due to themselves. It was due to him. Every one recollected what a sensation that message had produced in the House; every one must remember the able report upon it in the Senate. Yet there, the Executive abstained from using force, because the individuals were acting under the authority of a State. Compare this language with the bill now before the House; it was Hyperion to a Satyr. Compare the bill with the alien and sedition law—that odious act which had been virtually repealed by the public sentiment of the American people

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—and it dwindled into insignificance. A comparison of the two bills would be sufficient to convince any man of the character of this measure. The alien law empowered the President to order such as he might consider dangerous and suspected aliens to depart from the country; and if they refused, to imprison them.

[Here Mr. C. quoted the alien law.]

That bill permitted a man to be tried by his peers; but did this bill permit any such thing? Did the alien bill send a sword? No; but look at what this bill provided. [Here Mr. C. quoted the clause in relation to unlawful assemblages of people.] "May be deemed"—deemed by whom? Why, by the President, to be sure; or by a creature he should appoint. What did this bill do but put a sword into the hand of the Executive against his fellow-citizens? It empowered him to ride rough-shod over the sovereignty of a State of this Union. The advocates of the bill might deny the fact; but what had produced the act? Was it not the sovereign action of a sovereign State? And what had the House heard this day and yesterday from a native son of Carolina? from a gentleman indebted to her for his birth and his existence? That this bill was all-important to heal the wounds of a minority of that State.

[Here Mr. MITCHELL, of South Carolina, interposed, and flatly denied that he had said any such thing.]

The gentleman certainly had said that it was due to the Union party of South Carolina that the bill should pass. And why? It gave the collector of the revenue at Charleston, with one or two others, power to call out the forces of the whole American nation, to put down the sovereignty of a State acting through a majority of its citizens. That was plainly the view of the bill, and of those who supported it; it was to put South Carolina down; it was to put her leaders down; none could doubt this. The law, indeed, was general in its language; and it might even now be brought to bear upon Massachusetts, as rightfully as upon South Carolina; for the Massachusetts Legislature had passed a law which certainly squinted hard at nullification; the weasel was in part out of the bag, though they could not yet see the whole of him. And the tariff bill might yet raise storms at the North, which would require such a bill as this to quell. Though now the bill was receiving the aid of all the Eastern States, the time might yet come when those States would themselves be lashed with the whip they had put in the hands of the Executive.

The bill, it appeared, must pass, for the sake of the Union party in South Carolina. The State, he knew, had many distinguished citizens within the limits of that party; men, whose characters and motives he believed to be perfectly honorable and patriotic, and he regretted that any man should request, on their behalf, that such an act as this should pass against his own State. While he heard that request preferred, he could not but think of the

beautiful lines of Moore in relation to Ireland. Had this bill been directed against North Carolina, and Mr. C. had been a member of a large minority of that State, and a majority of the State (to which his allegiance was due) had resolved itself into an elementary assembly, and had decided that the constitution had been violated by any law of the Union, he should have scorned to ask the aid of the General Government or of any other foreign Government, to put down his mother, to trample on his parent, and send down her name dishonored to posterity.

Evening Session.

The House resumed the consideration of the revenue collection bill.

Mr. CLAYTON, of Georgia, rose in opposition to the bill. It has been well said by an old author, said Mr. C., that when a Government intends to commit violence upon the rights of the people, its first attempt is to put out the laws, as others, on like occasions, put out the lights. We allow the disburdening of a ship in imminent peril of wreck, but this will not excuse those who, upon a feigned foresight of a State tempest, shall immediately cast law and conscience overboard, discard and quit rudder and compass, and so assist the danger they pretend to fear. As a pretext to fall upon the people, they are to be visited with frequent vexations; and lest these should be healed by that generous forbearance peculiar to a love of country, their sores are to be regained and exasperated, under all the urging circumstances that come within the invention of scandal. And hence it is a principle in the politics of tyranny to make every infirmity a fault, and every fault a crime. Such as study to be great by any means, must by all means forget to be just; and they that will usurp dominion over others, must first become slaves to the worst of tyrants—a lust after power. Power, when unchained, stops at nothing short of full gratification, and by nothing is it so much delighted as the red ruins of wasted countries, desolated fields, and demolished habitations; and this scene is greatly heightened in its hell-smitten aspect, if there be left to brood over the mischief the solitude of widowhood, and the destitution of orphanage. Such may be the result of this day's legislation, and there is to come out of it this lesson, that, in the promptings of ambition, power cannot be purchased too dear, though it cost the blood of millions. In the contemplation of a principle so desponding, there is left one consolation, poor, I confess, that it will not be the first supremacy that has been won and worn upon the length and keenness of a usurping sword.

The bill we are called on to pass, amounts to a declaration, without mincing the matter, that the States of this confederacy, as States, may be compelled by the military force of the Government to yield implicit obedience to the laws of a majority of Congress, no matter what may be their character; and that there is no other

relief but the virtue of the longest sword and the strongest arm, wielded under the dread alternative of triumph or treason. And what is worse, though one is the creature of the other, yet the creator alone can commit treason. The creature has nothing to lose in the conflict. It draws its resources from the author of its own being, by which it makes its conquests, and is subject to no pains or penalties; while, on the contrary, the State has every thing to forfeit, and pays the expense of the war on both sides. Is this a false statement of the case? Then what has produced this state of things? That which has produced more real discontent than all other matters besides; I mean taxation. In countries where the people are taxed to support the splendor of kings, the luxurious indulgence of noble families, of particular dynasties, and are educated to believe that such impositions are all right, and is the very essence of duty, it is a matter of little concern how much their oppressors afflict them. But in this enlightened country, where men know their rights, and are taught, from the republican simplicity of their Government, that taxes are property, and just so much and no more is required, as is honestly necessary for the frugal purposes of Government to protect the residue left in the hands of the contributor, it becomes a subject of just complaint whenever these limits are transcended. For whom, then, are these taxes levied? Are they for the Government? Not so. The President has said they are not necessary, more than is wanting ought to be reduced; recommends it, and considers the South badly treated. A reduction of six millions of taxes, which the Secretary of the Treasury says can be readily spared, will end all our strifes, and render this odious law perfectly unnecessary. Why can it not be done? Was there ever before an instance of one portion of the people fighting the other to keep on the taxes, and the Government standing by, with its pockets as full as it wants, encouraging the battle? Look at the matter in its true colors. The South has been complaining for ten years, in every form that undressed injury can suggest; and they have been as constantly repelled by every excuse that insatiable avarice could invent, and none so often urged as the public debt. Well, now the public debt is paid. What next? Behold the Government, in honest truth, comes out and says, we have as much as we want out of you, and more too; but here are a few eager manufacturers standing at our back, who state that they are not yet satisfied, and urge as a reason why we should let them subsidize you a little longer, that you are putting on the signs of rebellion, and it will never do, the pride of the Government will not suffer it, to permit you to question our authority to tax you for whatever purpose we please. True, these manufacturers have driven you to desperation, and to drive you out of it again becomes a pretext to keep on the taxes. Lay down your arms, fall

on your knees, and raise your hands and eyes in supplication, and we have no doubt they will take the matter into their serious consideration at the next session of Congress! Now, Mr. Speaker, you may think this is no hard matter to bear, and that we ought to try it a little longer; but mark me, we are in and about the very point where it can be endured no longer, and this Congress would do well to pause before they move any further. What is it you want—taxes? For what? For the Government? Take what you please to any amount for its honest purposes. Have you ever been stinted? Your Secretary says you cannot possibly spend more than fifteen millions, and the allowance of this sum will reduce our burdens six millions. Why will you not do it! Do you want more for yourselves? Only observe for a moment how bountifully you are supplied out of these fifteen millions. Bear with me while I tell the people, who are working under God's curse for what little they earn, how sumptuously their governors live.

First, go with me to the palace of your President; see the splendors of his household, view the lawns and artificial hills and dales that surround his mansion, made on purpose to regale his eye, and varied every year to relieve his vision from the dulness of monotony! All this comes out of the estimate of fifteen millions, said to be wanted for the use of the Government! Come with me to the gaudy exhibitions displayed in both halls of Congress; see our hundred white servants, subject to our beck and call, and we can hardly lift a draught of water to our lips without their help! See the splendid gardens and enclosures provided for our special comfort and refreshment! One pavement, of ninety feet in length and forty in breadth, has cost four thousand dollars! One enclosure of eight acres, for a botanic garden, in front of this magnificent building, is about to cost us twenty thousand dollars. The bringing of water from a spring in the adjacent country, to sport in a fountain before the Capitol, is to cost thirty thousand more. It was but last night you gave away to this city, alone, eight hundred thousand dollars, besides one hundred thousand for paving its streets. The appropriation for what is so wastefully scattered over this building and its various apartments, I mean fuel and stationery, is one hundred thousand dollars a year, a sum sufficient to defray the separate civil list of half the States in the Union. Two thousand dollars to paper three rooms in the President's palace, enough to build forty habitations for those in the humbler walks of life, who are the tax-paying people. All this, and I barely mention a few items, to show the character and extravagance of public expenditure, also comes out of this estimate of fifteen millions of dollars, intended to supply the wants of the Government.

Yes, sir, the wants of the Government! And when the people, with a holy devotion for the Government of their choice, are willing to sub-

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mit to these impositions, and to gratify these frugal wants, it is not enough; they must contribute to the similar wants of private gentlemen, and to the gratification of the like kind of splendor; because, forsooth, they have idle money about them that must be put to profitable employment, through the agency of the Government, and at the expense of the great mass of the laboring South. And when the South complains, they are told, your conduct is insolent, your course is rebellious, and your doctrines are treasonable! It becomes our duty, and is demanded by the dignity of our Government, in the language of the Chief Magistrate of the nation to a member of this House, "to put you down." These additional taxes, over and above the wants of the Government, so long complained of, and now of a character no longer to be borne, have brought up the South to the point of resistance. South Carolina has said she submits no longer. The rest of the South will soon follow. Tyranny, always cowardly, has taken the alarm. Every thing is magnified into rebellion. Wonderful signs, as of old, have appeared. The earth and air are filled with prognostics. Expresses freighten the country from Washington to Charleston. A steamboat has been seen to reverse its flag, the Union down. One star on a blood-red flag has been seen in the South. On the morning the proclamation made its appearance in the Senate, no prayers had been said in that body. The flag of Congress, on that same morning, was observed to be flapping in confusion, only half-mast high. One of the thirteen stars, representing the thirteen States, in the Virginia Capitol, fell on the day that that grave body were discussing federal relations. These were fearful omens of approaching war and rebellion; and as history plainly shows, should never be disregarded by a cautious and wise Government.

But, Mr. Speaker, these wonderful signs have produced another wonderful consequence; like the Dutch apparitions that frightened the English King, they have brought out a similar proclamation. A proclamation, I will venture to say, that may safely challenge the world for its parallel. By what authority was it issued? Sir, I am about to make a declaration that I dare any man to deny. I affirm that there is no authority in this Government for any proclamation from the President of the United States, that is not founded upon some notorious law. The King of Great Britain dare not issue his proclamation unless supported by some known statute. Now, show me the law that authorizes the proclamation in question: I boldly say there is none. What! have we come to this, that a proclamation, like the edicts of the Grand Sultan, is to be the rule of action for the free people of these United States? That the President shall proclaim in written instruments what he considers to be the law; what is his interpretation of the constitution; and that, according to his views of either, the sovereign

States shall be bound? Is any here so credulous as to believe that if such a paper had been issued by the expected successor of the present incumbent against such a State as Virginia, it would have been tolerated for a single moment south of the Potomac? No sir, it would have been burnt in every town and hamlet throughout all that region. And pray, sir, what is the nature of it? In one breath it reasons; in the next it threatens; now it argues, then it raves; here it is pathetic, there it is satiric; in one moment it is serious, in another it is ironical; sometimes grave, at others petulant; in some places it is persuasive, in others intolerant; in many parts absolute, and everywhere dictatorial. It arraigns the motives of men; is abusive of particular characters; imputes base designs to the public authorities of a State, and denounces the leaders of the people of that State as traitors: losing sight of the dignity of a State paper emanating from the Chief Magistrate of a great Government, it descends to personalities, and those are directed against personal enemies; its author calls himself the father of the misguided people of South Carolina. The "father!" mind that! the language used to the red people of the West. Your "great father" says so and so; in the name of every thing, have we come to that? The States sunk into Indian tribes! But, Mr. Speaker, the worst part of this matter is to be told; that while this friendly, feeling, flattering, fatherly, and fighting proclamation is reclaiming a State from the error of its ways, it is delivering over the whole of the States into the hands of the General Government to be consolidated, and henceforth to be known no more as sovereign States. The republican party, who have been contending for State rights for upwards of thirty years, and fondly believed they had gloriously achieved their object, have had their trophies levelled in the dust at a single blow, and themselves bound, hand and foot, and thrown into the power of their old vanquished enemies. What a revolution! and how suddenly accomplished!

But it is said the proclamation, though erroneous in principle, was issued from the best of motives. Yes, Mr. Speaker, there is not a whipping-post, a jail, or a gallows, that may not claim the same merit; but when they are abused for the purposes of fraud and oppression, it is but of little comfort to the sufferer to point him to the good motives that lie at the foundation of their institution. I wish, however, this celebrated instrument had even the virtue of their design for its appearance.

This proclamation has been followed up by a cool, calculating message, confirming all its principles, and demanding the bill now under discussion. This bill requires force to put down, not the tumult of a few individuals acting upon their own responsibility, but the solemn and deliberate act of the people of a whole sovereign State, assembled in convention in the same manner in which they assented to

the federal constitution, and asserted under all the forms known to a well-organized and independent Government. Sir, this bill does not blink the question; it asks for the power of declaring war against a State, and for the use of the army and navy, to give success to that war. And, sir, we are about to grant it. We are about to do that against a sister State, which we dare not do against a foreign nation. We dare not, without a formal declaration of war, which alone rests with the representatives of the people, where it should rest, for they are answerable for unnecessary wars, confer upon the President the power to use the army and navy against any nation that should prove unmindful of its obligations. Sir, the message contemplated war, whatever persons may say as to its peaceable character. Did not the President enter into a learned legal disquisition, displaying his usual profound research into the depths of that science, even down to the feudal origin of his subject, to show that the *posse comitatus* was a military force, and as such might be resisted? What was this for? That if South Carolina should attempt to use this instrument, which she and all other Governments have used time out of mind, to carry into effect her legal process, and which she will continue to use, when necessary, in all other cases where her own citizens are alone concerned, it is to be considered the use of force on her part. It must cease to be employed in cases where the General Government is a party, and, if used, it is to be treated as a military force, and shot down by the army and navy of the United States. As well may the courts and their sheriff be considered as a military force, and treated in like manner. Does not every one perceive that this is the way the civil war is to commence? The sheriff, and his unarmed *posse*, are, by a forced construction, and at the special instance of the President, to suit the occasion, made a hostile array as against the Federal Government, (but perfectly lawful as against the State's own citizens,) and, as such, are to be murdered by the United States troops. Does any man in his proper senses believe that, when such a scene commences, the good people of South Carolina are going to stand around the dead bodies of their sons with folded arms, and tamely submit to such butchery? And if they will not, where is it to stop? Do gentlemen flatter themselves it will be confined to South Carolina alone? They must have a very contemptible opinion of the other Southern States, either as respects their courage or veracity, for they have more than once said they will not submit to the tariff; and I trust they will have discernment enough to see that the destruction of Carolina is sought on that very account. The South may prove recreant; it may falsify all its former strong asseverations; it may abandon South Carolina after the work of death begins; they may turn out to be a talking, and not a fighting people; but I shall not believe it till I see it, notwithstanding the proclamation and this bill

are supported by some Southern members. The first and fifth sections of this bill allow the President to use military force, and these are to remain in operation to the end of the next session of Congress. The other sections confer great powers on the federal court, and are intended to be permanent. I think I can perceive that in some of these provisions my own State is to have another difficulty, either with the Indians or the General Government; but as she can, as heretofore, take care of herself, I shall not now moot this point with the House, but go on to show that, under the fifth section a common marshal, especially if he be opposed to his own State, a thing not very unlikely, may involve this whole country in one universal blaze of civil war. The President is authorized to call out the military force, when informed by a federal judge that "any law or laws of the United States, or the execution thereof," is obstructed by "any unlawful means, too great to be overcome by the power vested in the marshal." Now, who informs the federal judge of this fact? Does not every one see it must be the marshal? Who judges of the "unlawful means, too great to be overcome?" Is it not the marshal? And must not the judge certify, upon his information? Should he choose, in the plenitude of his great wisdom and caution, to consider an assemblage of the good people of Charleston, at the circus, convened to express resolutions on federal relations as "unlawful means, too great to be overcome," and should they not disperse upon the coming of the proclamation, what is to hinder the army and navy from doing their deeds of death upon this unoffending people? Sir, the power is too tremendous to be given to any one man that ever did or ever will live upon this earth, especially in times like these, of personal passion, party prejudice, and powerful excitement. I would not grant it to the President, even if he could be personally present, with all his peculiar moderation and love of peace, to judge of the "unlawful means" himself, much less a partisan marshal, bent upon the triumph of his party, even at the expense of the lives of his adversaries, a passion which has not been without its manifest exhibition, even within these walls.

Mr. ISAACS, of Tennessee, said: I will advance such reasons as occur to me, and which I have not heard given by others, why this bill ought, at this time, to be passed. I can truly say that I rejoice with those who do rejoice, that, by the passage of the bill for the reduction of the tariff, the olive branch of peace has been extended to the discontented people of the South, and nothing could have afforded me more pleasure than to find it acceptable (so far as we can judge) to Southern members, and that, I admit, gives a great degree of assurance that it will be satisfactory to their constituents; and some have expressed their belief that it would, while others have doubted. But they cannot give, neither can

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we receive from them a pledge that it will be accepted. Though much has been conceded, still it stops short of the demands of South Carolina, and may be rejected. God grant it may not. But are our laws such light and empty things that they are to be observed or resisted at pleasure? After what South Carolina has already done, after she has left nothing undone that could render resistance effectual, shall we leave every thing to chance, and do nothing to counteract their operations, by providing the means for the effectual execution of our laws? If, contrary to all our hopes, Congress should adjourn, and our new tariff law share the fate of the former, unless this bill become a law, the work of nullification and secession would then go on triumphantly. But what would the country say of us? We should have to meet the just reproaches of our constituents, and be convinced, when it was too late, that we had been too confiding, that we had risked every thing, and lost all that our inaction could lose. The ordinance of South Carolina has at one sweep pronounced our whole system of revenue laws null and void, and declared a conditional secession from the Union; and her legislative acts have carried out the scheme. Now, I will not stop to dispute whether all this can be (as they call it) a peaceable remedy, or what is meant by nullification and secession. In the plain English definition and common sense view of their proceedings, I pronounce them to be revolutionary in their character and tendencies. And who will peril the safety of the country upon the uncertainty of their going backward rather than forward? Our acquaintance with human nature and the history of ages, even farther back than the time of Lord Somers, should remind us that when the elements of society are agitated, disturbed, and shaken asunder, as when the fountains of the great deep are broken up, they are not readily quieted and confined, and often defy all bounds. And it sometimes happens that those who start foremost in the career, either of revolution or reform, are outrun, and even run over, and left far behind by their more ardent and reckless followers.

This may, or may not, come to pass in South Carolina. There is in that State perhaps more talent than in any other in proportion to their number of free inhabitants; but I have seen and read enough from there to convince me that there are amongst them many bold, impatient, and ambitious spirits, who, for aught I know, may think some of their present leaders too moderate and easily satisfied; especially if they could get the lead themselves. In speaking of the nullification party collectively, as I do, I must not be understood to say that they are bad men; far from it; I have seen enough of human nature to learn that, under the influence of high excitement, surrounded and propelled by concurring circumstances, good men will often go to as great excesses and commit as great errors as bad men; and the difference be-

tween them can only be found in the motives by which they are actuated. But it may be said that all this is mere speculation, from which no certain results can be shown. Be it so. In providing the means of security, it is not necessary that the danger should be inevitable. We know the threatening position which they have taken; they may proceed to put in practice what they have put on parchment. That is enough for us to know. If with this knowledge we refuse to act, we make ourselves answerable for the consequences.

Mr. Speaker, I have adverted to future probabilities, merely in connection with the realities of the present and the past; and, upon the strength of these realities, I shall insist that if we would vindicate the authority and honor of the Government, we have no choice but to pass this bill. How stand the facts? South Carolina, in the highest attitude she could assume, and in the most decisive form, has ordained that all the revenue laws of this Government are null and void, and shall not be carried into effect within her limits. That the twenty-fifth section of the judiciary act, which this House a few years ago, by a large majority, very properly, as I think, refused to repeal, shall have no effect in that State. And, upon certain conditions, amounting to this, that if she is prevented from making effectual resistance to the laws, she will no longer be a member of this Union, but will forthwith proceed to form a separate and independent Government. This ordinance of the convention has been fully carried out and adapted to practical purposes by the enactments of the Legislature. And, to complete the work, a large military force is provided, companies, regiments, and it might not be going too far to say, armies, are organized, equipped, and ready for the field. We learn, also, that they have mounted the blue cockade. I wonder how it came to be blue. I have heard of blue laws and blue lights, of the blue bells of Scotland, and the bonnets of blue; but I never before heard of blue cockades! But, without respect to color, it is a badge of hostility—an emblem of war.

[Mr. McDUFFIE denied the flag.]

I return, said Mr. ISAACS, to the far weightier matters; the ordinance, the statutes, the military preparations. These are undeniable, and here I will hold. How long these are to abide, we know not; but this we know, that they now exist in all their force and vigor. And shall these measures of resistance and defiance be taken in the face of the American people, and the world, and meet with no rebuke? Shall nothing be done that will tell to all, now and hereafter, what is the sense of the nation on this procedure? We cannot do less than provide adequate means to counteract the progress of nullification, if it is persisted in; and if it is not, so much the better, our act will then be inoperative.

Mr. BLAIR, of South Carolina, followed:—I repeat now, what I have said again and again, that I shall regard the rejection of this

bill as a negative sanction of nullification, and an indirect rebuke of the Union party in South Carolina. I have not asked this, or any other measure, for the personal safety of the Union party: I have repeatedly disclaimed it, entirely and unconditionally. We ask not personal protection: we would suffer annihilation before we would invoke aid in that respect. But we think there is something due to our character and feelings. And I submit it to the candid consideration of this House whether it would be generous or politic to make a "scapegoat" of the "Union party," to bear away the sins of nullification to the wilderness, in order to conciliate the disorganizers in South Carolina. Suppose you do so on this occasion, what encouragement would an orderly, well-disposed minority in a refractory State have to stand up for the dignity of this Government, and the execution of its laws in a coming day? Could you expect such a minority in a rebellious State to hazard their personal liberty, their lives and fortunes, to subject themselves to civil and political disfranchisement, to obloquy and reproach, and to peril their all, as the Union party in South Carolina have done, in defence of the Union, and the institutions of the country? No, sir, you could not expect it. They would remind you of the fate of the "Union party" in South Carolina. I can assure the gentleman from North Carolina, and I assure this House, that the duty now imposed on me in relation to this bill, is far from being a pleasant one. It will be remembered that, at the commencement of the session, I asked and obtained leave to withdraw from the Military Committee, of which I was a member. I did this under an impression that possibly it might become the duty of that committee to recommend some coercive means to counteract the rash measures of the ruling party in the State from which I came. Had I remained a member of that committee, I could not oppose any proposition that might be deemed necessary for putting down nullification and its concomitant measures, without indirectly aiding and abetting what I consider a rebellious proceeding, or, at least a proceeding of rebellious tendency; and it was repugnant to my feelings to assist, as a member of a committee, in recommending to this House any measures or means of coercion against the misguided State of South Carolina. I was unwilling to subject myself to the appearance, or to the reproaches even of the nullifiers, of aiding to inflict blows on the State which I in part represent. The public interest and safety did not require that I should make that sacrifice of feeling. My place on the committee could be easily, perhaps advantageously, supplied, without detriment to the action of this House, or injury to the public service. But now the case is different; I feel myself differently situated. I am called upon, not only as a representative of South Carolina, but as a representative of the American people, to discharge a solemn and conscientious duty, which cannot be performed

by a substitute. Here is an unpleasant duty to be performed, which cannot be evaded by referring it to a committee of which I am not a member. The question presents itself to this House, and is not to be blinked by any member here unless he proves recreant to the trust reposed in him. I have come to the conclusion, some time since, that it is my bounden duty to vote for this bill, and I shall not shrink from the responsibility of doing so, be the consequences to myself what they may. Were I to vote against this bill, I should consider myself as giving an indirect sanction to nullification, secession, and all the absurdities which accompany these political heresies. It is impossible, therefore, that I should vote against the bill; and to withhold my vote, would be nearly equivalent to my negation of the bill.

THURSDAY, February 28.

Revenue Collection Bill—Nullification.

EVENING SESSION.

The House resumed the consideration of the revenue collection bill.

Mr. FOSTER, of Georgia, said: It is not to be disguised that this is an administration measure; it comes to us not only approved, but asked for by the Executive; and, therefore, as a friend of the administration, it would have given me great pleasure to have been able to yield it my feeble support. But, however high my respect for the President and his constitutional advisers, I cannot sustain their policy at the sacrifice of my own principles and opinions. I shall never be so much the partisan or friend of any man as to surrender the honest convictions of my own judgment. In opposing, however, the recommendations of the President with regard to South Carolina, I take the occasion to disclaim any imputation whatever on his motives. In the integrity of his motives and the purity of his patriotism, I have the utmost confidence—quite as much, certainly, as many gentlemen around me who are so reasonably sustaining these recommendations.

I owe it to myself, Mr. Speaker, also to say that I do not appear here as the advocate of South Carolina. I do not approve her recent measures. Do not imagine, however, that I am about to join in those unmeasured censures and denunciations which have been so lavishly bestowed upon her. No, sir; this is a crusade in which I shall be among the last to enlist; it is an enterprise which presents no temptations to my ambition; it is a field in which I shall gather no laurels. Sir, South Carolina is the natural ally, the sister of Georgia. Her gallant sons are our neighbors, our brethren, our fellow-sufferers; and, while disapproving their acts, I can most truly say, that "with all their faults I love them still."

Yes, Mr. Speaker, the passage of this bill will be another deep (God grant it may not be a fatal) stab to the constitution. And really I had hoped that its already mangled body

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would have protected it from further outrage. The condition to which your repeated attacks have reduced it, is sufficient, it might be supposed, to disarm even its most vindictive enemies. Let me entreat you, then, to stay the uplifted arm, and withhold, it may be, the finishing blow. Sir, had I the power, like Mark Antony, "I would put a tongue in every wound" which your ill-judged legislation has made, to implore your forbearance.

To those around me who have recently evinced so much zeal in the cause of the constitution, and affected so much anxiety to save it from sacrilegious hands, I particularly appeal. I especially invoke the aid of an honorable gentleman, (Mr. VINTON, of Ohio,) who, a few evenings ago, in the fervency of his patriotism, was ready to see all our rivers running with blood, and this great confederacy converted into one vast slaughter-house, rather than have one tittle of the constitution obliterated by force. And, sir, had I but a small portion of that powerful and commanding eloquence, which I heard on a recent occasion,* in another place, in the anticipation of dangers to this sacred instrument, "calling on all the people to its rescue," in a tone and manner which I can never forget, and which filled me with emotions too big for utterance—I repeat, sir, did I possess a particle of his overpowering eloquence, I would call in loud strains, not upon "all the people," but upon these their representatives, in this hour of imminent peril, to come to the aid of the constitution, and save it from the danger which threatens it, from specious and subtle construction. For if it must fall, it matters little whether by the hand of violence, or by the unperceived and undermining process of ingenious and plausible sophistry. I would, indeed, prefer the attack by open violence, because then we could see the extent of the danger, and might prepare to encounter it.

But, Mr. Speaker, the first section of this bill further provides that, to enable the collector more effectually to exact the payment of cash duties, as proposed, he shall seize and detain all vessels and cargoes until the duties are paid; and in the event of an attempt to take such vessels or cargoes from the possession of the collector by any force, combination, or assemblage of individuals, or by any process other than from a court of the United States, the President, or such person as he shall empower for that purpose, may employ such part of the land and naval forces, or militia of the United States, as may be necessary to prevent the removal of the vessels or cargoes from the possession of the officers of the customs, &c.

Sir, that proneness to resist the exercise of all powers not delegated to us, of which the House has had some evidence, prompted me, when a proposition was made to confer power so great, and of such dangerous tendency, to

consult again the charter under which we act. On examining, with great care, I find in the constitution that "Congress shall have power to provide for calling forth the militia to execute the laws of the Union, to suppress insurrections, and repel invasions." The very object of the bill on your table is, to enable the President to execute the laws. Now, I will not say that, in extreme cases, when no other means could be available, Congress might not, under the power to "pass all laws necessary" to carry the granted powers into effect, resort to the regular army and navy; but I will say that the very provision for calling forth the militia shows very clearly, that in the view of the framers of the constitution, the execution of the laws, if military force should be necessary, should be left to the militia, the yeomanry of the country. Our ancestors, in their difficulties with the mother country, had learned a lesson as to the enforcement of laws by the aid of a standing army, from which they seem to have profited; and they confided this dangerous trust to those who were most deeply interested in a faithful, but mild execution of the laws—the great body of the people. And, upon the legal maxim, that "the inclusion of one is the exclusion of all others," the provision for calling forth the militia to execute the laws, excludes the idea that any other force was contemplated for this purpose.

That this was the view of those who were concerned in the formation of the constitution, is plainly inferrible, from the fact that the first laws passed for the suppression of insurrections in 1792 and 1795, were entitled acts "to provide for calling forth the militia to execute the laws of the Union, suppress insurrection, and repel invasion," in the very words of the constitutional provision.

But, Mr. Speaker, I maintain that the present attitude of South Carolina does not furnish such a case as was contemplated by the constitution, where the laws were to be executed even by the militia. There is no "insurrection" there, within the meaning of the constitution, nor is there such a "combination to obstruct the execution of the laws" as contemplated by the acts of 1792 and 1795. Whatever proceeding is had under the ordinance of South Carolina is the act of a sovereign State—it is the exercise of sovereign power. Whether this right belongs to the State, it is not necessary, for the purpose of this argument, to inquire. She claims it, and has exercised it, and any act done under the authority of the State, will be protected by the State. To attempt, therefore, to reduce individuals, acting under this authority, to obedience to your laws, will be an attempt to coerce the State—it will be making war upon the State. And this power, as stated in the report of the Judiciary Committee, and as all who have read the journals of the Federal Convention know, was several times proposed to be given to Congress, but uniformly rejected. But, on this point, I shall adhere to the course

* Alluding to the speech of Mr. Webster, in the Senate, on this bill.

pursued by the committee. I will not be drawn into a discussion of the right of this Government to make war upon one of the States. Far, far distant be the day when such an inquiry shall become necessary.

But it is said by my colleague, (Mr. WAYNE,) and the suggestion has been made by others, that we have no assurance that South Carolina will repeal her ordinance, or that she will not nullify the tariff law which we now pass, as she has those of 1828 and 1832. Sir, let us be candid with ourselves on this occasion. It is indeed possible that this may be the case; but does any one believe it will be? At the intercession of a sister State, the convention by which this ordinance was passed, have been ordered to reassemble; and it is notorious that the object of this reassembling is to suspend the operation of the nullifying laws until the close of the next session of Congress. This, too, let it be remembered, was done at a time when all hope of a modification of the tariff by this Congress had been nearly extinguished. With these facts before us, then, and with the still more striking fact that every Senator and Representative in Congress from South Carolina has voted for this modification, where is the man who can for a moment indulge a serious apprehension that that State will attempt to arrest the operation of the law? If there be a member of this House who does really entertain such apprehensions, I have some curiosity to know him. It will certainly entitle him to a distinction which he should not lose the opportunity of acquiring, and I will, therefore, pause to see if there be one who will make the avowal. [Mr. F. here paused, but no gentleman rising, he proceeded:] As I expected—a death-like silence! No, sir, there is not an intelligent man here or elsewhere, who entertains a reasonable doubt that South Carolina will not acquiesce in the compromise which has been effected.

But, Mr. Speaker, it is further argued that unless we pass the bill now on your table, the modification of the tariff will have the appearance of concession—a yielding to the demands of South Carolina—that it will seem as though the General Government had been bullied into measures. At the same time, it is admitted that the complaints of the South are just, and ought to be redressed. Sir, I have been more than astonished at the frequent repetition of this objection during this session. What, sir, is the legislation of the American Congress to be governed and regulated by such fastidiousness? How many a noble and gallant spirit has met an untimely fate under the misguidance of these false notions of honor! refusing to make just reparation—to atone for an injury, because a challenge had been given! And yet we, to whose hands are confided, in an eminent degree, the destinies of fifteen millions of people, are prepared to resign their high and important interests—nay, to stake the very existence of the Union upon this delusive idea! Sir, how long before we shall be able to sink the feelings

of the man in the noble and elevated and enlarged views of the statesman?

Gentlemen tell us, however that, by decisive measures on the part of the Federal Government, all opposition to its authority will be put down, and the majesty of the laws vindicated. How soon we forget the teaching of history and experience! What instructive lessons do they give us as to the consequences, in national as well as individual quarrels, of a course of menace on one hand, and defiance on the other! Collisions and violence have scarcely ever failed to be the result. But we are told, with a triumphant, if not an unfeeling air, that it will be an easy matter to put down South Carolina; that the President has assured us that the laws shall be executed, and his character is a sufficient guaranty for the redemption of the pledge. All this may be very probable. From the accounts we have of popular meetings, and the numerous offers of patriotic volunteers to enlist in this glorious enterprise, you have certainly little cause to doubt your success. But how would you enjoy it, when purchased at the expense of the blood of your valiant and chivalrous Southern brethren? Who would rush madly on to crush even what some consider a rebellion, when the lives of hundreds of our own countrymen must be the cost? Sir, I envy no man his feelings, who can either boast of such an anticipated victory, or could exult in the bloody achievement.

But do you not run the hazard of provoking the other Southern States to take part with South Carolina? Much as they disapprove her course, the origin of this controversy is common to them all; there is an identity of interest and of oppression, which is rapidly producing an identity of feeling. Sir, are not the present indications sufficient to warn gentlemen? Do not the unquiet state and feverish excitement in many parts of the Southern country admonish you of what may follow the first act of violence? Sir, once kindle this fire in the South, and who shall extinguish it? Excite the resentment and passions of a gallant and high-spirited people, and who shall control them? Raise the tempest, and who shall allay it, or calculate its ravages? Where is the master spirit that "can ride on the whirlwind, and direct the storm?" What hand shall chain the billows of the raging ocean? Believe me, sir, these are not the suggestions of an excited imagination. Violent and oppressive measures in other countries have generally resulted in convulsions and civil wars; and beware that you do not make the history of your own a mere transcript from their records.

Mr. CRAIG, of Virginia, demanded the previous question, which was seconded—Yeas 103.

The previous question was then put, as follows: "Shall the main question now be put?" and carried.

The main question was accordingly put—"Shall the bill be ordered to be engrossed, and read a third time?" and determined as follows:

MARCH, 1883.]

Bank of the United States—Miscellaneous Business.

[H. OF R.]

YEAH.—Messrs. Adams, Chilton Allan, Heman Allen, Anderson, Appleton, Ashley, Banks, Noyes Barber, Barringer, Barstow, Isaac C. Bates, James Bates, Beardale, Bell, Bergen, James Blair, John Blair, Boon, Bonck, Briggs, John Brodhead, John C. Brodhead, Bucher, Bullard, Cambreleng, Carr, Chandler, Eleutheros Cooke, Bates Cooke, Corwin, Craig, Crane, Crawford, Creighton, John Davis, Dayan, Dearborn, Denny, Dickson, Doubleday, Draper, George Evans, Joshua Evans, Edward Everett, Horace Everett, Findlay, Fitzgerald, Ford, Grennell, William Hall, Hiland Hall, Harper, Hawkins, Heister, Hodges, Hoffman, Hogan, Holland, Horn, Howard, Hubbard, Huntington, Ihrie, Irvin, Isaacks, Jarvis, R. M. Johnson, Joseph Johnson, Kavanaugh, Kendall, Kennon, John King, Henry King, Lansing, Leavitt, Lecompte, Letcher, Lyon, Mann, Marshall, Maxwell, Wm. McCoy, McIntyre, McKay, McKennon, Mercer, Milligan, Mitchell, Muhlenberg, Nelson, Newton, Pearce, Pendleton, Pierson, Pitcher, Polk, Potts, John Reed, Edward C. Reed, Russell, Sewall, Slade, Smith, Southard, Speight, Standifer, Stephens, Stewart, Storrs, Sutherland, Taylor, Francis Thomas, Philemon Thomas, John Thomson, Tompkins, Tracy, Verplanck, Ward, Wardwell, Watmough, Wayne, Wilkin, Elisha Whittlesey, Campbell P. White, Edward D. White, Worthington, Young—126.

NAYS.—Messrs. Alexander, Robert Allen, Archer, Arnold, Barnwell, Bouldin, Carson, Chinn, Claiborne, Clayton, Coke, Connor, Coulter, Daniel, Davenport, Warren R. Davis, Felder, Foster, Gordon, Griffin, Thomas H. Hall, Lewis, Mason, Robert McCoy, Newnan, Nuckolls, Patton, Plummer, Roane, Root, Wiley Thompson, Wheeler, Wickliffe—34.

SATURDAY, March 2.

Bank of the United States.

The following resolution, reported yesterday by the Committee of Ways and Means, coming up for consideration,

“Resolved, That the Government deposits may, in the opinion of the House, be safely continued in the Bank of the United States:”

[On this resolution an animated debate took place, in which Messrs. Polk, Wickliffe, Ingersoll of Connecticut, and McDuffie, were the principal speakers; and the question being put, on the adoption of the resolution, it was carried by the following vote:]

YEAH.—Messrs. Adams, Chilton Allan, Heman Allen, Appleton, Arnold, Ashley, Babcock, Banks, Noyes Barber, John S. Barbour, Barwell, Barringer, Barstow, Isaac C. Bates, Briggs, Bucher, Burd, Burges, Cahoon, Choate, Claiborne, Eleutheros Cooke, Bates Cooke, Cooper, Corwin, Coulter, Craig, Crane, Crawford, Creighton, Daniel, Davenport, John Davis, Dearborn, Denny, Dickson, Drayton, Draper, Duncan, Ellsworth, George Evans, Joshua Evans, Edward Everett, Horace Everett, Ford, Gilmore, Grennell, Griffin, Hiland Hall, Hawes, Heister, Hodges, Howard, Hughes, Huntington, Ihrie, Ingersoll, Jarvis, Jenifer, Richard M. Johnson, Kendall, Henry King, Letcher, Lewis, Marshall, Maxwell, Robert McCoy, McDuffie, McIntyre, McKay, McKennon, Mercer, Milligan, Muhlen-

berg, Nelson, Newnan, Newton, Patton, Pearce, Pendleton, Pitcher, Potts, Randolph, John Reed, Rencher, Root, Russell, Semmes, Sewall, William B. Shepard, Stephens, Stewart, Storrs, Sutherland, Taylor, Philemon Thomas, Tompkins, Tracy, Verplanck, Vinton, Washington, Watmough, Wilkin, Elisha Whittlesey, Frederick Whittlesey, Edward D. White, Wickliffe, Williams, Young—109.

NAYS.—Messrs. Anderson, Angel, Archer, James Bates, Beardale, Bergen, Bethune, John Blair, Bouck, John Brodhead, Carr, Clay, Clayton, Connor, Dayan, Fitzgerald, Gaither, Gordon, Thomas H. Hall, Harper, Hawkins, Hoffman, Holland, Horn, Hubbard, Adam King, Lecompte, Lyon, Mann, Mardis, Mason, McCarty, Mitchell, Pierson, Polk, Edward C. Reed, Soule, Speight, Standifer, Francis Thomas, Wiley Thompson, Wardwell, Wayne, Weeks, Campbell P. White, Worthington—46.

So the House resolved that the Government deposits may, in the opinion of the House, be safely continued in the Bank of the United States.

The House then took a recess from 4 to 6 o'clock.

Evening Session.

Mr. HOWARD moved the following resolution, (Mr. TAYLOR having been temporarily called to the chair by the Speaker:)

Resolved, That the thanks of this House be presented to the Hon. ANDREW STEVENSON, Speaker, for the fairness, dignity, skill, and impartiality, with which he has discharged the duties of the chair, during the twenty-second Congress.

The question being put, the resolution was passed *nem. con.*

Mr. SEVIER moved to go into committee on three bills for territorial objects. The yeas and nays were called, and it appeared that only 90 members answered to their names.

From this time until near 5 o'clock, successive attempts were made to obtain a quorum to vote on different motions, but in vain.

At a little before 5 o'clock, a motion was made to appoint a joint committee on the part of the House, to join a committee on the part of the Senate, to inform the President that the two Houses were ready to adjourn.

The question was put, and decided in the affirmative: Yeas 70, nays 19.

Mr. WHITE, of New York, and Mr. POLK, were appointed the committee; and in a short time after, they returned, and reported that the President had no further communication to make to Congress.

Whereupon, on motion of Mr. BARBOUR, the House adjourned *sine die*.

The SPEAKER then rose, and addressed the House as follows:

GENTLEMEN: I pray you to accept my grateful acknowledgments for this renewed expression of confidence and approbation, in the discharge of the official duties of this high office.

I receive it in the same spirit of kindness in which I flatter myself it has been offered, and shall

cherish it with feelings of profound respect, and the deepest gratitude. For the last six years it has been your pleasure that the arduous duties of this chair should be assigned to me.

This whole period of service has, as you well know, gentlemen, been distinguished by events well calculated to render this station one of more than ordinary labor and responsibility.

I have zealously and faithfully endeavored to meet this responsibility, and I hope I shall not be deemed arrogant when I say, that I feel a proud consciousness that the duties of this high trust have been discharged by me with a single eye to the character and dignity of this House, the interest of my country, and my own honor.

That I have often erred, I most readily admit; but they have been errors of rule and principle, not caprice or passion; and if there has been any apparent rigor or harshness in the Chair, you will do me the justice to believe that it was unintentional and indiscriminate.

If, gentlemen, in moments of excitement and commotion, any thing unkind has occurred between myself and the individual members of the House, let me assure you it has long since passed from my memory, and been forgiven and forgotten.

I have no injuries to complain of, and no memory for them, if they existed, and I shall part with you all this night in the spirit of peace and good will.

Before we separate, gentlemen, will you pardon me for a moment in offering a single suggestion?

Our councils of late have been greatly divided, and their harmony and peace disturbed.

Our country has been deeply and painfully excited,

and the safety and security of the Union itself threatened.

May we not all now hope that the causes of excitement are hourly subsiding and passing off? That peace and harmony and brotherly affection will soon shed their holy, calm, and blessed influences around us; and that our beloved country will again become united, peaceful, and happy?

In assuming this station, some years ago, I took the liberty of then expressing to the House a sentiment which I had long cherished, and which I now seize this fit occasion of repeating from this chair. It is this: that our confederated republic can only safely exist under the influence of wise, equal, and just laws; by the ties of common interests and brotherly affection; a spirit of mutual forbearance and moderation, (collectively and individually,) and by cherishing a devotion to that liberty and Union secured to us by the blood of our common fathers. These are the stable foundations upon which our liberties and free institutions can alone rest; and God grant they may be eternal. This, gentlemen, in all human probability, is the moment of separation with many, very many of us, forever. Is there one individual present to whose bosom a final separation from those with whom he has been so long and intimately associated, will not cast a painful and bitter pang? If there be, I confess I envy not his feelings.

You will carry with you, gentlemen, my cordial and best wishes for your individual prosperity and happiness, and I pray you to receive this my most affectionate, and, possibly, last farewell.

The SPEAKER then adjourned the House *sine die*.

TWENTY-THIRD CONGRESS.—FIRST SESSION.

BEGUN AT THE CITY OF WASHINGTON, DECEMBER 2, 1833.

PROCEEDINGS IN THE SENATE.*

Executive Government for the Twelfth Presidential Term commencing 4th March, 1833, and ending 3d March, 1837.

ANDREW JACKSON, of Tennessee, *President*.

MARTIN VAN BUREN, of New York, *Vice President*.

Secretaries of State.—EDWARD LIVINGSTON, of Louisiana. [Appointed in the previous term.]—LOUIS McLANE, of Delaware. [Appointed 29th May, 1833. Resigned.]—JOHN FORSYTH, of Georgia. [Nominated and confirmed 27th June, 1834.]

Secretaries of the Treasury.—LOUIS McLANE, of Delaware. [Appointed in the previous term.]—WILLIAM J. DUANE, of Pennsylvania. [Appointed 29th May, 1833, in recess of the Senate.]—ROGER B. TANEY, of Maryland. [Appointed 23d September, 1833.]—LEVI WOODBURY, of New Hampshire. [Nominated and confirmed 27th June, 1834.]

Secretary of War.—LEWIS CASE, of Ohio. [Appointed in the previous term.]

Secretaries of the Navy.—LEVI WOODBURY, of New Hampshire. [Appointed in the previous term, and resigned 30th June, 1834.]—MAHLON DICKERSON, of New Jersey. [Nominated and confirmed 30th June, 1834.]

Postmaster General.—WILLIAM T. BARRY, of Kentucky. [Appointed in the previous Administration.]—AMOS KENDALL, of Kentucky. [Appointed 1st May, 1835, in recess of the Senate. [Nomination confirmed 15th March, 1836.]

MONDAY, December 2, 1833.

At 12 o'clock, the *PRESIDENT pro tem.*, the Hon. HUGH L. WHITE, of Tennessee, in the absence of the Vice President (MARTIN VAN BUREN, Esq.) called the Senate to order.

The CHAIR presented the credentials of ELISHA R. POTTER, elected a Senator from Rhode Island, for which State ASHER ROBBINS had been previously elected, and had, in pursuance of such election, taken his seat in the Senate;

* LIST OF MEMBERS OF THE SENATE.

Maine.—Peleg Sprague, Ether Shepley.

New Hampshire.—Samuel Bell, Isaac Hill.

Massachusetts.—Nathaniel Silsbee, Daniel Webster.

Rhode Island.—Nehemiah E. Knight, * Asher Robbins,

* E. R. Potter.

Connecticut.—Gideon Tomlinson, Nathan Smith.

Vermont.—Samuel Prentiss, Benjamin Swift.

New York.—Silas Wright, N. P. Tallmadge.

New Jersey.—Theodore Frelinghuysen, S. L. Southard.

Pennsylvania.—William Wilkins, Samuel McKean.

Delaware.—John M. Clayton, Arnold Naudain.

* In the case marked with an (*) the seat was claimed by both of the gentlemen named.

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and also a certificate that the election of the said ASHER ROBBINS was null and void; which documents were read.

The CHAIR then stated the fact of Mr. ROBBINS having been returned as elected, and his credentials read at the last session, and left it to the Senate to determine on the course to be pursued as to the qualifying of either of those gentlemen.

Mr. POINDEXTER rose and said, that it was not

Maryland.—Ezekiel F. Chambers, Joseph Kent.

Virginia.—William C. Rives, John Tyler.

North Carolina.—Bedford Brown, W. P. Mangum.

South Carolina.—J. C. Calhoun, William C. Preston.

Georgia.—John Forsyth, John P. King.

Kentucky.—George M. Bibb, Henry Clay.

Tennessee.—Felix Grundy, Hugh L. White.

Ohio.—Thomas Ewing, Thomas Morris.

Louisiana.—G. A. Waggaman, Alexander Porter.

Indiana.—William Hendricks, John Tipton.

Mississippi.—George Poindexter, John Black.

Illinois.—Elias K. Kane, John M. Robinson.

Alabama.—William B. King, Gabriel Moore.

Missouri.—Thomas H. Benton, Lewis F. Linn.

his intention to offer any opinion on the merits of the course which had been adopted by the State of Rhode Island, but merely to say, that it seemed to him to be a matter of course that the Senator first elected, and whose credentials were presented at the last session of the Senate, should be permitted to approach the chair and take the oath; and that the other gentleman, who contests the election of Mr. ROBBINS, should present his credentials either to the Committee on Elections, or the Committee on the Judiciary, and that the Senate should afterwards receive the report of that committee, and determine which of the gentlemen is duly elected. But he was not prepared at this time to question the election of the gentleman whose credentials were before the Senate at the last session, until a committee of the Senate should have decided that he was not fairly elected. He was not prepared at present to offer an opinion on these points, but he thought that the Senator in his seat should approach and take the oath.

He then moved that Mr. ROBBINS do take the customary oath.

Mr. CLAY suggested the propriety of making the collateral motion, that the credentials of Mr. POTTER be laid on the table.

On motion of Mr. POINDEXTER, it was then ordered that the credentials of Mr. POTTER do lie on the table.

Mr. ROBBINS then took the oath.

Death of Senator Buckner.

Mr. BENTON, of Missouri, submitted a resolution proposing the usual mourning in honor of the memory of Hon. R. A. BUCKNER, late a Senator from Missouri; which was read and agreed to.

Death of Senator Josias Stoddard Johnston.

Mr. CLAY then rose and said, that the adoption of this resolution reminded him of a severe loss which the public and he himself had sustained since the last session, and concerning which he did not now deem himself qualified to speak. He felt regret that the gentleman had not been able yet to take his seat, on whom it would more properly have devolved to submit the motion which he now proposed to offer. He desired to call the attention of the Senate to the melancholy death of a member of this body, who had been summoned away since they last met together, under circumstances of the most distressing nature. He was a man who possessed the rare quality of making a favorable impression on all persons who knew him, and who never failed, on acquaintance, to conciliate the esteem both of friends and of opponents; for whenever he fought, he fought manfully, but always afterwards cherished the kindest feelings towards those who had been his adversaries. During the last summer, perhaps all the members of the Senate had had reason to regret some bereavements, and none more than himself. In the course of it, a pestilential disease

had traversed his neighborhood, and swept off many valuable citizens, among whom he numbered some of his oldest friends and acquaintances. So it had been in other parts of the country; but, amidst all this desolation, there had occurred no instance of individual loss more afflicting to him, nor more to be lamented on the public account, than that of the Senator from Louisiana.

With feelings oppressed with pain, he rose to ask the Senate to adopt a resolution similar to that which had just been agreed to, in reference to the late Senator JOHNSON. No man in the country had attended more ardently and more faithfully to his public duties, or had brought to their discharge a more clear, enlightened, and determined judgment. No man ever more happily united blandness and affability with firmness and decision. None could be more true and faithful to friends, nor more courteous and respectful towards opponents. This expression, he hoped, would be permitted from a heart which had bled profusely when the tidings of this afflicting event reached him, amidst the wrecks which the pestilence had scattered around him.

He had not expected to be called on to offer this resolution, but he trusted that it would be received, and unanimously agreed to.

Mr. C. then submitted his resolution, which was unanimously agreed to.

TUESDAY, December 3.

The annual Message was received from the President of the United States, which was read, as follows:

Fellow-citizens of the Senate and House of Representatives:

On your assembling to perform the high trusts which the people of the United States have confided to you, of legislating for their common welfare, it gives me pleasure to congratulate you upon the happy condition of our beloved country. By the favor of Divine Providence, health is again restored to us: peace reigns within our borders: abundance crowns the labors of our fields: commerce and domestic industry flourish and increase: and individual happiness rewards the private virtue and enterprise of our citizens.

Our condition abroad is no less honorable than it is prosperous at home. Seeking nothing that is not right, and determined to submit to nothing that is wrong, but desiring honest friendships and liberal intercourse with all nations, the United States have gained throughout the world the confidence and respect which are due to a policy so just, and so congenial to the character of the American people, and to the spirit of their institutions.

In bringing to your notice the particular state of our foreign affairs, it affords me high gratification to inform you that they are in a condition which promises the continuance of friendship with all nations.

With Great Britain the interesting question of our North-eastern boundary remains still undecided. A negotiation, however, upon that subject, has been

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renewed since the close of the last Congress, and a proposition has been submitted to the British Government, with the view of establishing, in conformity with the resolution of the Senate, the line designated by the treaty of 1783. Though no definitive answer has been received, it may be daily looked for, and I entertain a hope that the overture may ultimately lead to a satisfactory adjustment of this important matter.

I have the satisfaction to inform you that a negotiation which, by desire of the House of Representatives, was opened, some years ago, with the British Government, for the erection of light-houses on the Bahamas, has been successful. Those works, when completed, together with those which the United States have constructed on the western side of the Gulf of Florida, will contribute essentially to the safety of navigation in that sea. This joint participation in establishments interesting to humanity and beneficial to commerce, is worthy of two enlightened nations, and indicates feelings which cannot fail to have a happy influence upon their political relations. It is gratifying to the friends of both to perceive that the intercourse between the two people is becoming daily more extensive, and that sentiments of mutual good will have grown up, befitting their common origin, justifying the hope that, by wise counsels on each side, not only unsettled questions may be satisfactorily terminated, but new causes of misunderstanding prevented.

Notwithstanding that I continue to receive the most amicable assurances from the Government of France, and that in all other respects the most friendly relations exist between the United States and that Government, it is to be regretted that the stipulations of the convention concluded on the 4th of July, 1831, remain, in some important parts, unfulfilled.

By the second article of that convention, it was stipulated that the sum payable to the United States should be paid at Paris, in six annual instalments, into the hands of such person or persons as should be authorized by the Government of the United States to receive it; and by the same article the first instalment was payable on the second day of February, 1833. By the act of Congress of the 13th July, 1832, it was made the duty of the Secretary of the Treasury to cause the several instalments, with the interest thereon, to be received from the French Government, and transferred to the United States, in such manner as he may deem best; and by the same act of Congress, the stipulations on the part of the United States, in the convention, were, in all respects, fulfilled. Not doubting that a treaty thus made and ratified by the two Governments, and faithfully executed by the United States, would be promptly complied with by the other party, and desiring to avoid the risk and expense of intermediate agencies, the Secretary of the Treasury deemed it advisable to receive and transfer the first instalment by means of a draft upon the French minister of Finance. A draft for this purpose was accordingly drawn in favor of the cashier of the Bank of the United States, for the amount accruing to the United States out of the first instalment, and the interest payable with it. This bill was not drawn at Washington until five days after the instalment was payable at Paris, and was accompanied by a special authority from the President, authorizing the cashier, or his assigns, to receive the amount. The mode thus adopted of

receiving the instalment, was officially made known to the French Government by the American chargé d'affaires at Paris, pursuant to instructions from the Department of State. The bill, however, though not presented for payment until the 23d day of March, was not paid, and for the reason assigned by the French minister of Finance, that no appropriation had been made by the French Chambers. It is not known to me that, up to that period, any appropriation had been required of the Chambers; and although a communication was subsequently made to the Chambers by direction of the King, recommending that the necessary provision should be made for carrying the convention into effect, it was at an advanced period of the session, and the subject was finally postponed until the next meeting of the Chambers.

Notwithstanding it has been supposed by the French ministry that the financial stipulations of the treaty cannot be carried into effect without an appropriation by the Chambers, it appears to me to be not only consistent with the character of France, but due to the character of both Governments, as well as to the rights of our citizens, to treat the convention, made and ratified in proper form, as pledging the good faith of the French Government for its execution, and as imposing upon each department an obligation to fulfil it; and I have received assurances through our chargé d'affaires at Paris, and the French minister plenipotentiary at Washington, and more recently through the minister of the United States at Paris, that the delay has not proceeded from any indisposition on the part of the King and his ministers to fulfil the treaty, and that measures will be presented at the next meeting of the Chambers, and with a reasonable hope of success, to obtain the necessary appropriation.

It is necessary to state, however, that the documents, except certain lists of vessels captured, condemned, or burnt at sea, proper to facilitate the examination and liquidation of the reclamations comprised in the stipulations of the convention, and which, by the sixth article, France engaged to communicate to the United States by the intermediary of the legation, (though repeatedly applied for by the American chargé d'affaires under instructions from this Government,) have not yet been communicated; and this delay, it is apprehended, will necessarily prevent the completion of the duties assigned to the commissioners within the time at present prescribed by law.

The reasons for delaying to communicate these documents have not been explicitly stated, and this is the more to be regretted as it is not understood that the interposition of the Chambers is in any manner required for the delivery of those papers.

Under these circumstances, in a case so important to the interests of our citizens and to the character of our country, and under disappointments so unexpected, I deemed it my duty, however I might respect the general assurances to which I have adverted, no longer to delay the appointment of a minister plenipotentiary to Paris, but to despatch him in season to communicate the result of his application to the French Government at an early period of your session. I accordingly appointed a distinguished citizen for this purpose, who proceeded on his mission in August last, and was presented to the King early in the month of October. He is particularly instructed as to all matters connected

with the present posture of affairs, and I indulge the hope that, with the representations he is instructed to make, and from the disposition manifested by the King and his ministers in their recent assurances to our minister at Paris, the subject will be early considered and satisfactorily disposed of at the next meeting of the Chambers.

As this subject involves important interests, and has attracted a considerable share of the public attention, I have deemed it proper to make this explicit statement of its actual condition; and should I be disappointed in the hope now entertained, the subject will be again brought to the notice of Congress in such a manner as the occasion may require.

The friendly relations which have always been maintained between the United States and Russia have been further extended and strengthened by the treaty of navigation and commerce concluded on the 6th of December last, and sanctioned by the Senate before the close of its last session. The ratifications having been since exchanged, the liberal provisions of the treaty are now in full force; and, under the encouragement which they have secured, a flourishing and increasing commerce, yielding its benefits to the enterprise of both nations, affords to each the just recompense of wise measures, and adds new motives for that mutual friendship which the two countries have hitherto cherished towards each other.

It affords me peculiar satisfaction to state that the Government of Spain has at length yielded to the justice of the claims which have been so long urged in behalf of our citizens, and has expressed a willingness to provide an indemnification as soon as the proper amount can be agreed upon. Upon this latter point, it is probable that an understanding had taken place between the minister of the United States and the Spanish Government before the decease of the late King of Spain; and, unless that event may have delayed its completion, there is reason to hope that it may be in my power to announce to you, early in your present session, the conclusion of a convention upon terms not less favorable than those entered into for similar objects with other nations. That act of justice would well accord with the character of Spain, and is due to the United States from their ancient friend. It could not fail to strengthen the sentiments of amity and good-will between the two nations, which it is so much the wish of the United States to cherish, and so truly the interest of both to maintain.

By the first section of an act of Congress passed on the 18th July, 1832, the tonnage duty on Spanish ships arriving from the ports of Spain was limited to the duty payable on American vessels in the ports of Spain, previous to the 20th October, 1817, being five cents per ton. That act was intended to give effect, on our side, to an arrangement made with the Spanish Government, by which discriminating duties of tonnage were to be abolished in the ports of the United States and Spain on the vessels of the two nations. Pursuant to that arrangement, which was carried into effect, on the part of Spain, on the 20th of May, 1832, by a royal order dated the 29th April, 1832, American vessels in the ports of Spain have paid five cents per ton, which rate of duty is also paid in those ports by Spanish ships; but, as American vessels pay no tonnage duty in the ports of the United States, the duty of five cents payable in our ports

by Spanish vessels, under the act above mentioned, is really a discriminating duty, operating to the disadvantage of Spain. Though no complaint has yet been made on the part of Spain, we are not the less bound by the obligations of good faith to remove the discrimination; and I recommend that the act be amended accordingly. As the royal order, above alluded to, includes the ports of the Balearic and Canary Islands, as well as those of Spain, it would seem that the provisions of the act of Congress should be equally extensive, and that, for the repayment of such duties as may have been improperly received, an addition should be made to the sum appropriated at the last session of Congress for refunding discriminating duties.

As the arrangement referred to, however, did not embrace the islands of Cuba and Porto Rico, discriminating duties, to the prejudice of American shipping, continued to be levied there. From the extent of the commerce carried on between the United States and those islands, (particularly the former,) this discrimination causes serious injury to one of those great national interests which it has been considered an essential part of our policy to cherish, and has given rise to complaints on the part of our merchants. Under instructions given to our minister at Madrid, earnest representations have been made by him to the Spanish Government upon this subject, and there is reason to expect, from the friendly disposition which is entertained towards this country, that a beneficial change will be produced. The disadvantage, however, to which our shipping is subjected by the operation of these discriminating duties, requires that they be met by suitable countervailing duties during the present session—power being, at the same time, vested in the President to modify or discontinue them as the discriminating duties on American vessels or their cargoes may be modified or discontinued at those islands. Intimations have been given to the Spanish Government that the United States may be obliged to resort to such measures as are of necessary self-defence, and there is no reason to apprehend that it would be unfavorably received. The proposed proceedings, if adopted, would not be permitted, however, in any degree to induce a relaxation in the efforts of our minister to effect a repeal of this irregularity by friendly negotiation, and it might serve to give force to his representations by showing the dangers to which that valuable trade is exposed by the obstructions and burdens which a system of discriminating and countervailing duties necessarily produces.

The selection and preparation of the Florida archives, for the purpose of being delivered over to the United States, in conformity with the royal order, as mentioned in my last annual message, though in progress, has not yet been completed. This delay has been produced partly by causes which were unavoidable, particularly the prevalence of cholera at Havana; but measures have been taken which it is believed will expedite the delivery of those important records.

Congress were informed, at the opening of the last session, that, "owing, as was alleged, to embarrassments in the finances of Portugal, consequent upon the civil war in which that nation was engaged," payment had been made of only one instalment of the amount which the Portuguese Government had stipulated to pay for indemnifying our citizens for property illegally captured in the block-

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ade of Terceira. Since that time, a postponement for two years, with interest, of the two remaining instalments, was requested by the Portuguese Government; and, as a consideration, it offered to stipulate that rice of the United States should be admitted into Portugal at the same duties as Brazilian rice. Being satisfied that no better arrangement could be made, my consent was given; and a royal order of the King of Portugal was accordingly issued on the 4th of February last for the reduction of the duty on rice of the United States. It would give me great pleasure if, in speaking of that country, in whose prosperity the United States are so much interested, and with whom a long subsisting, extensive, and mutually advantageous commercial intercourse has strengthened the relations of friendship, I could announce to you the restoration of its internal tranquillity.

Subsequently to the commencement of the last session of Congress, the final instalment payable by Denmark, under the convention of the 28th day of March, 1830, was received. The commissioners for examining the claims have since terminated their labors, and their awards have been paid at the Treasury as they have been called for. The justice rendered to our citizens by that Government is thus completed, and a pledge is thereby afforded for the maintenance of that friendly intercourse becoming the relations that the two nations mutually bear to each other.

It is satisfactory to inform you that the Danish Government have recently issued an ordinance by which the commerce with the island of St. Croix is placed on a more liberal footing than heretofore. This change cannot fail to prove beneficial to the trade between the United States and that colony; and the advantages likely to flow from it may lead to greater relaxations in the colonial systems of other nations.

The ratifications of the convention with the King of the Two Sicilies have been duly exchanged, and the commissioners appointed for examining the claims under it have entered upon the duties assigned to them by law. The friendship that the interests of the two nations require of them being now established, it may be hoped that each will enjoy the benefits which a liberal commerce should yield to both.

A treaty of amity and commerce between the United States and Belgium was concluded during the last winter, and received the sanction of the Senate; but the exchange of the ratifications has been hitherto delayed, in consequence, in the first instance, of some delay in the reception of the treaty at Brussels, and, subsequently, of the absence of the Belgian minister of Foreign Affairs, at the important conferences in which his Government is engaged at London. That treaty does but embody those enlarged principles of friendly policy which, it is sincerely hoped, will always regulate the conduct of the two nations, having such strong motives to maintain amicable relations toward each other, and so sincerely desirous to cherish them.

With all the other European powers with whom the United States have formed diplomatic relations, and with the Sublime Porte, the best understanding prevails. From all, I continue to receive assurances of good will towards the United States—assurances which it gives me no less pleasure to reciprocate than to receive. With all, the engagements which have been entered into are fulfilled with good faith

on both sides. Measures have also been taken to enlarge our friendly relations and extend our commercial intercourse with other States. The system we have pursued of aiming at no exclusive advantages, of dealing with all on terms of fair and equal reciprocity, and of adhering scrupulously to all our engagements, is well calculated to give success to efforts intended to be mutually beneficial.

The wars of which the southern part of this continent was so long the theatre, and which were carried on either by the mother country against the States which had formerly been her colonies, or by the States against each other, having terminated, and their civil dissensions having so far subsided, as, with few exceptions, no longer to disturb the public tranquillity, it is earnestly hoped those States will be able to employ themselves without interruption in perfecting their institutions, cultivating the arts of peace, and promoting, by wise counsels and able exertions, the public and private prosperity which their patriotic struggles so well entitle them to enjoy.

With those States our relations have undergone but little change during the present year. No reunion having yet taken place between the States which composed the Republic of Colombia, our chargé d'affaires at Bogota has been accredited to the Government of New Granada, and we have, therefore, no diplomatic relations with Venezuela and Ecuador, except as they may be included in those heretofore formed with the Colombian Republic. It is understood that representatives from the three States were about to assemble at Bogota, to confer on the subject of their mutual interests, particularly that of their union; and if the result should render it necessary, measures will be taken on our part to preserve with each that friendship and those liberal commercial connections which it has been the constant desire of the United States to cultivate with their sister republics of this hemisphere. Until the important question of reunion shall be settled, however, the different matters which have been under discussion between the United States and the Republic of Colombia, or either of the States which composed it, are not likely to be brought to a satisfactory issue.

In consequence of the illness of the charge d'affaires appointed to Central America at the last session of Congress, he was prevented from proceeding on his mission until the month of October. It is hoped, however, that he is by this time at his post, and that the official intercourse, unfortunately so long interrupted, has been thus renewed on the part of the two nations, so amicably and advantageously connected by engagements founded on the most enlarged principles of commercial reciprocity.

It is gratifying to state that, since my last annual message, some of the most important claims of our fellow-citizens upon the Government of Brazil have been satisfactorily adjusted, and a reliance is placed on the friendly dispositions manifested by it that justice will also be done in others. No new causes of complaint have arisen; and the trade between the two countries flourishes under the encouragement secured to it by the liberal provisions of the treaty.

It is cause of regret, that, owing probably to the civil dissensions which have occupied the attention of the Mexican Government, the time fixed by the treaty of limits with the United States for the

meeting of the commissioners to define the boundaries between the two nations, has been suffered to expire without the appointment of any commissioners on the part of that Government. While the true boundary remains in doubt by either party, it is difficult to give effect to those measures which are necessary to the protection and quiet of our numerous citizens residing near that frontier. The subject is one of great solicitude to the United States, and will not fail to receive my earnest attention.

The treaty concluded with Chili, and approved by the Senate at its last session, was also ratified by the Chilian Government, but with certain additional and explanatory articles of a nature to have required it to be again submitted to the Senate. The time limited for the exchange of the ratifications, however, having since expired, the action of both Governments on the treaty will again become necessary.

The negotiations commenced with the Argentine Republic, relative to the outrages committed on our vessels engaged in the fisheries at the Falkland islands, by persons acting under the color of its authority, as well as the other matters in controversy between the two Governments, have been suspended by the departure of the chargé d'affaires of the United States from Buenos Ayres. It is understood, however, that a minister was subsequently appointed by that Government to renew the negotiation in the United States, but, though daily expected, he has not yet arrived in this country.

With Peru no treaty has yet been formed, and with Bolivia no diplomatic intercourse has yet been established. It will be my endeavor to encourage those sentiments of amity and that liberal commerce which belong to the relations in which all the independent States of this continent stand towards each other.

I deem it proper to recommend to your notice the revision of our consular system. This has become an important branch of the public service, inasmuch as it is intimately connected with the preservation of our national character abroad, with the interest of our citizens in foreign countries, with the regulations and care of our commerce, and with the protection of our seamen. At the close of the last session of Congress I communicated a report from the Secretary of State upon the subject, to which I now refer, as containing information which may be useful in any inquiries that Congress may see fit to institute with a view to a salutary reform of the system.

It gives me great pleasure to congratulate you upon the prosperous condition of the finances of the country, as will appear from the report which the Secretary of the Treasury will, in due time, lay before you. The receipts into the Treasury during the present year will amount to more than thirty-two millions of dollars. The revenue derived from customs will, it is believed, be more than twenty-eight millions, and the public lands will yield about three millions. The expenditures within the year, for all objects, including two million five hundred and seventy-two thousand two hundred and forty dollars and ninety-nine cents on account of the public debt, will not amount to twenty-five millions, and a large balance will remain in the Treasury after satisfying all the appropriations chargeable on the revenue for the present year.

The measures taken by the Secretary of the

Treasury will probably enable him to pay off, in the course of the present year, the residue of the exchanged four and a half per cent. stock, redeemable on the first day of January next; it has, therefore, been included in the estimated expenditures of this year, and forms a part of the sum above stated to have been paid on account of the public debt: the payment of this stock will reduce the whole debt of the United States, funded and unfunded, to the sum of \$4,760,082 08; and, as provision has already been made for the four and a half per cent. above mentioned, and charged in the expenses of the present year, the sum last stated is all that now remains of the national debt; and the revenue of the coming year, together with the balance now in the Treasury, will be sufficient to discharge it, after meeting the current expenses of the Government. Under the power given to the Commissioners of the Sinking Fund, it will, I have no doubt, be purchased on favorable terms within the year.

From this view of the state of the finances, and the public engagements yet to be fulfilled, you will perceive that, if Providence permits me to meet you at another session, I shall have the high gratification of announcing to you that the national debt is extinguished. I cannot refrain from expressing the pleasure I feel at the near approach of that desirable event. The short period of time within which the public debt will have been discharged, is strong evidence of the abundant resources of the country, and of the prudence and economy with which the Government has heretofore been administered. We have waged two wars since we became a nation, with one of the most powerful kingdoms in the world; both of them undertaken in defence of our dearest rights—both successfully prosecuted and honorably terminated; and many of those who partook in the first struggle, as well as the second, will have lived to see the last item of the debt incurred in these necessary but expensive conflicts, faithfully and honestly discharged; and we shall have the proud satisfaction of bequeathing to the public servants who follow us in the administration of the Government, the rare blessing of a revenue sufficiently abundant, raised without injustice or oppression to our citizens, and unencumbered with any burdens but what they themselves shall think proper to impose upon it.

The flourishing state of the finances ought not, however, to encourage us to indulge in a lavish expenditure of the public treasure. The receipts of the present year do not furnish the test by which we are to estimate the income of the next. The changes made in our revenue system by the acts of Congress of 1832 and 1833, and more especially by the former, have swelled the receipts of the present year far beyond the amount to be expected in future years upon the reduced tariff of duties. The shortened credits on revenue bonds, and the cash duties on woollens, which were introduced by the act of 1832, and took effect on the 4th of March last, have brought large sums into the Treasury in 1833, which, according to the credits formerly given, would not have been payable until 1834, and would have formed a part of the income of that year. These causes would of themselves produce a great diminution of the receipts in the year 1834, as compared with the present one, and they will be still more diminished by the reduced rates of duties which take place on the 1st of January

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[SENATE.]

next on some of the most important and productive articles. Upon the best estimates that can be made, the receipts of the next year, with the aid of the unappropriated amount now in the Treasury, will not be much more than sufficient to meet the expenses of the year, and pay the small remnant of the national debt which yet remains unsatisfied. I cannot, therefore, recommend to you any alteration in the present tariff of duties. The rate as now fixed by law on the various articles was adopted at the last session of Congress as a matter of compromise with unusual unanimity; and unless it is found to produce more than the necessities of the Government call for, there would seem to be no reason, at this time, to justify a change.

But, while I forbear to recommend any further reduction of the duties beyond that already provided for by the existing laws, I must earnestly and respectfully press upon Congress the importance of abstaining from all appropriations which are not absolutely required for the public interests, and authorized by the powers clearly delegated to the United States. We are beginning a new era in our Government. The national debt, which has so long been a burden on the Treasury, will be finally discharged in the course of the ensuing year. No more money will afterwards be needed than what may be necessary to meet the ordinary expenses of the Government. Now, then, is the proper moment to fix our system of expenditure on firm and durable principles; and I cannot too strongly urge the necessity of a rigid economy, and an inflexible determination not to enlarge the income beyond the real necessities of the Government, and not to increase the wants of the Government by unnecessary and profuse expenditures. If a contrary course should be pursued, it may happen that the revenue of 1834 will fall short of the demands upon it; and after reducing the tariff in order to lighten the burdens of the people, and providing for a still further reduction to take effect hereafter, it would be much to be deplored, if, at the end of another year, we should find ourselves obliged to retrace our steps, and impose additional taxes to meet unnecessary expenditures.

It is my duty, on this occasion, to call your attention to the destruction of the public building occupied by the Treasury Department, which happened since the last adjournment of Congress. A thorough inquiry into the causes of this loss was directed and made at the time, the result of which will be duly communicated to you. I take pleasure, however, in stating here, that, by the laudable exertions of the officers of the Department, and many of the citizens of the District, but few papers were lost, and none that will materially affect the public interest.

The public convenience requires that another building should be erected as soon as practicable, and, in providing for it, it will be advisable to enlarge, in some manner, the accommodations for the public officers of the several Departments, and to authorize the erection of suitable depositories for the safe keeping of the public documents and records.

Since the last adjournment of Congress, the Secretary of the Treasury has directed the money of the United States to be deposited in certain State banks designated by him, and he will immediately lay before you his reasons for this direction. I concur with him entirely in the view he has taken

of the subject, and some months before the removal I urged upon the Department the propriety of taking that step. The near approach of the day on which the charter will expire, as well as the conduct of the bank, appeared to me to call for this measure, upon the high considerations of public interest and public duty. The extent of its misconduct, however, although known to be great, was not at that time fully developed by proof. It was not until late in the month of August that I received from the Government directors an official report, establishing beyond question that this great and powerful institution had been actively engaged in attempting to influence the elections of the public officers by means of its money, and that, in violation of the express provisions of its charter, it had, by a formal resolution, placed its funds at the disposition of its president, to be employed in sustaining the political power of the bank. A copy of this resolution is contained in the report of the Government directors, before referred to; and, however the objects may be disguised by cautious language, no one can doubt that this money was, in truth, intended for electioneering purposes, and the particular uses to which it is proved to have been applied, abundantly show that it was so understood. Not only was the evidence complete as to the past application of the money and power of the bank to electioneering purposes, but that the resolution of the board of directors authorized the same course to be pursued in future.

It being thus established, by unquestionable proof, that the Bank of the United States was converted into a permanent electioneering engine, it appeared to me that the path of duty which the Executive department of the Government ought to pursue was not doubtful. As, by the terms of the bank charter, no officer but the Secretary of the Treasury could remove the deposits, it seemed to me that this authority ought to be at once exerted to deprive that great corporation of the support and countenance of the Government in such a use of its funds and such an exertion of its power. In this point of the case, the question is distinctly presented, whether the people of the United States are to govern through representatives chosen by their unbiased suffrages, or whether the money and power of a great corporation are to be secretly exerted to influence their judgment and control their decisions. It must now be determined whether the bank is to have its candidates for all offices in the country, from the highest to the lowest, or whether candidates on both sides of political questions shall be brought forward, as heretofore, and supported by the usual means.

At this time the efforts of the bank to control public opinion through the distresses of some and the fears of others, are equally apparent, and, if possible, more objectionable. By a curtailment of its accommodations more rapid than any emergency requires, and even while it retains specie to an almost unprecedented amount in its vaults, it is attempting to produce great embarrassment in one portion of the community, while, through presses known to have been sustained by its money, it attempts, by unfounded alarms, to create a panic in all.

These are the means by which it seems to expect that it can force a restoration of the deposits, and, as a necessary consequence, extort from Congress a renewal of its charter. I am happy to know

that, through the good sense of our people, the effort to get up a panic has hitherto failed, and that, through the increased accommodations which the State banks have been enabled to afford, no public distress has followed the exertions of the bank; and it cannot be doubted that the exercise of its power, and the expenditure of its money, as well as its efforts to spread groundless alarm, will be met and rebuked as they deserve. In my own sphere of duty, I should feel myself called on, by the facts disclosed, to order a *scire facies* against the bank, with a view to put an end to the chartered rights it has so palpably violated, were it not that the charter itself will expire as soon as a decision would probably be obtained from the court of last resort.

I called the attention of Congress to this subject in my last annual message, and informed them that such measures as were within the reach of the Secretary of the Treasury, had been taken to enable him to judge whether the public deposits in the Bank of the United States were entirely safe; but that, as his single powers might be inadequate to the object, I recommend the subject to Congress, as worthy of their serious investigation: declaring it as my opinion that an inquiry into the transactions of that institution, embracing the branches as well as the principal bank, was called for by the credit which was given throughout the country to many serious charges impeaching their character; and which, if true, might justly excite the apprehension that they were no longer a safe depository for the public money. The extent to which the examination, thus recommended, was gone into, is spread upon your journals, and is too well known to require to be stated. Such as was made, resulted in a report from a majority of the Committee of Ways and Means, touching certain specified points only, concluding with a resolution that the Government deposits might safely be continued in the Bank of the United States. This resolution was adopted at the close of the session, by the vote of a majority of the House of Representatives.

Although I may not always be able to concur in the views of the public interest, or the duties of its agents, which may be taken by the other departments of the Government, or either of its branches, I am, notwithstanding, wholly incapable of receiving otherwise than with the most sincere respect, all opinions or suggestions proceeding from such a source; and in respect to none am I more inclined to do so, than to the House of Representatives. But it will be seen, from the brief views at this time taken of the subject by myself, as well as the more ample ones presented by the Secretary of the Treasury, that the change in the deposits which has been ordered, has been deemed to be called for by considerations which are not affected by the proceedings referred to, and which, if correctly viewed by that Department, rendered its act a matter of imperative duty.

Coming as you do, for the most part, immediately from the people and the States, by election, and possessing the fullest opportunity to know their sentiments, the present Congress will be, sincerely solicitous to carry into full and fair effect the will of their constituents in regard to this institution. It will be for those in whose behalf we all act, to decide whether the Executive department of the Government, in the steps which it has taken on this subject, has been found in the line of its duty.

The accompanying report of the Secretary of War, with the documents annexed to it, exhibit the operations of the War Department for the past year, and the condition of the various subjects intrusted to its administration.

It will be seen from them that the army maintains the character it has heretofore acquired for efficiency and military knowledge. Nothing has occurred since your last session to require its services beyond the ordinary routine of duties, which upon the seaboard and the inland frontier devolve upon it in a time of peace. The system, so wisely adopted and so long pursued, of constructing fortifications at exposed points, and of preparing and collecting the supplies necessary for the military defence of the country, and thus providently furnishing in peace the means of defence in war, has been continued with the usual results. I recommend to your consideration the various subjects suggested in the report of the Secretary of War. Their adoption would promote the public service and ameliorate the condition of the army.

Our relations with the various Indian tribes have been undisturbed since the termination of the difficulties growing out of the hostile aggressions of the Sac and Fox Indians. Several treaties have been formed for the relinquishment of territory to the United States, and for the migration of the occupants to the region assigned for their residence west of the Mississippi. Should these treaties be ratified by the Senate, provision will have been made for the removal of almost all the tribes now remaining east of that river, and for the termination of many difficult and embarrassing questions arising out of their anomalous political condition. It is to be hoped that those portions of two of the Southern tribes, which, in that event, will present the only remaining difficulties, will realize the necessity of emigration, and will speedily resort to it. My original convictions upon this subject have been confirmed by the course of events for several years, and experience is every day adding to their strength. That those tribes cannot exist, surrounded by our settlements, and in continual contact with our citizens, is certain. They have neither the intelligence, the industry, the moral habits, nor the desire of improvement, which are essential to any favorable change in their condition. Established in the midst of another and a superior race, and without appreciating the causes of their inferiority, or seeking to control them, they must necessarily yield to the force of circumstances, and ere long disappear. Such has been their fate heretofore, and if it is to be averted, and it is, it can only be done by a general removal beyond our boundary, and by a reorganization of their political system upon principles adapted to the new relations in which they will be placed. The experiment which has been recently made has so far proved successful. The emigrants generally are represented to be prosperous and contented, the country suitable to their wants and habits, and the essential articles of subsistence easily procured. When the report of the commissioners now engaged in investigating the condition and prospects of these Indians, and in devising a plan for their intercourse and government, is received, I trust ample means of information will be in possession of the Government for adjusting all the unsettled questions connected with this interesting subject.

The operations of the navy during the year, and

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its present condition, are fully exhibited in the annual report from the Navy Department.

Suggestions are made by the Secretary of various improvements, which deserve careful consideration, and most of which, if adopted, bid fair to promote the efficiency of this important branch of the public service. Among these are the new organization of the Navy Board, the revision of the pay to officers, and a change in the period of time, or in the manner of making the annual appropriations, to which I beg leave to call your particular attention.

The views which are presented on almost every portion of our naval concerns, and especially on the amount of force and the number of officers, and the general course of policy appropriate in the present state of our country, for securing the great and useful purposes of naval protection in peace, and due preparation for the contingencies of war, meet with my entire approbation.

It will be perceived, from the report referred to, that the fiscal concerns of the establishment are in an excellent condition; and it is hoped that Congress may feel disposed to make promptly every suitable provision desired, either for preserving or improving the system.

The General Post Office Department has continued, upon the strength of its own resources, to facilitate the means of communication between the various portions of the Union with increased activity. The method, however, in which the accounts of the transportation of the mail have always been kept, appears to have presented an imperfect view of its expenses. It has recently been discovered that, from the earliest records of the Department, the annual statements have been calculated to exhibit an amount considerably short of the actual expense incurred for that service. These illusory statements, together with the expense of carrying into effect the law of the last session of Congress establishing new mail routes, and a disposition on the part of the head of the Department to gratify the wishes of the public in the extension of mail facilities, have induced him to incur responsibilities for their improvement, beyond what the current resources of the Department would sustain. As soon as he had discovered the imperfection of the method, he caused an investigation to be made of its results, and applied the proper remedy to correct the evil. It became necessary for him to withdraw some of the improvements which he had made, to bring the expenses of the Department within its own resources. These expenses were incurred for the public good, and the public have enjoyed their benefit. They are now but partially suspended, and that where they may be discontinued with the least inconvenience to the country.

The progressive increase in the income from postages has equalled the highest expectations, and it affords demonstrative evidence of the growing importance and great utility of this Department. The details are exhibited in the accompanying report of the Postmaster General.

The many distressing accidents which have of late occurred in that portion of our navigation carried on by the use of steam power, deserve the immediate and unremitting attention of the constituted authorities of the country. The fact that the number of those fatal disasters is constantly increasing, notwithstanding the great improvements which are everywhere made in the machinery em-

ployed, and in the rapid advances which have been made in that branch of science, show very clearly that they are in a great degree the result of criminal negligence on the part of those by whom the vessels are navigated, and to whose care and attention the lives and property of our citizens are so extensively intrusted.

That these evils may be greatly lessened, if not substantially removed, by means of precautionary and penal legislation, seems to be highly probable; so far, therefore, as the subject can be regarded as within the constitutional purview of Congress, I earnestly recommend it to your prompt and serious consideration.

I would also call your attention to the views I have heretofore expressed of the propriety of amending the constitution in relation to the mode of electing the President and Vice President of the United States. Regarding it as all important to the future quiet and harmony of the people that every intermediate agency in the election of these officers should be removed, and that their eligibility should be limited to one term of either four or six years, I cannot too earnestly invite your consideration of the subject.

Trusting that your deliberations on all the topics of general interest to which I have adverted, and such others as your more extensive knowledge of the wants of our beloved country may suggest, may be crowned with success, I tender you, in conclusion, the co-operation which it may be in my power to afford them.

ANDREW JACKSON.

WASHINGTON, December 3, 1833.

5,000 extra copies of the Message, and 1,500 of the accompanying documents, were ordered to be printed for the use of the Senate.

WEDNESDAY, December 4.

Government Deposits—Removal.

The CHAIR laid before the Senate a report from the Secretary of the Treasury concerning the removal of the public deposits from the United States Bank and its branches.

On motion of Mr. GRUNDY, 5,000 copies of the report, and 1,500 copies of the documents, were ordered to be printed.

Rhode Island Senators.

Mr. S. WRIGHT offered the following resolution:

Resolved, That the proceedings of the Legislature of the State of Rhode Island, now upon the table of the Senate, showing the appointment of ELISHA R. PORTER as a Senator to represent that State in the Senate of the United States, be referred to a select committee of five Senators, to inquire and report upon the claim of the said ELISHA R. PORTER to the seat in the Senate now occupied by the Hon. ASHER ROBBINS.

THURSDAY, December 5.

Veto of the Land Bill.

A Message was received from the President of the United States, enclosing a communica-

tion of the reasons which had induced him to refuse his assent to the bill of the last session, authorizing an appropriation for a limited time, of the proceeds of the public lands. The Message having been read,

Mr. CLAY rose, and stated that this Measure had been first introduced into Congress at the session before the last, under circumstances which must be within the recollection of every member of the Senate. Its object was to dispose of the proceeds of the public lands for a limited time. The subject had been greatly discussed, not only in Congress, but throughout the country. The principles and provisions of the bill were well and generally understood. The subject had attracted the attention of the Chief Magistrate himself, and this bill was made the subject of commentary in his Message at the commencement of the last session of Congress. It must, therefore, be considered as a subject perfectly well understood by the President; for it was not to be supposed that he would have commented upon it, and recommended it to the attention of Congress, if it had not been understood. During the last session, this bill, which had previously been before the House, was introduced in this body, and was passed, and sent to the other House, whence it was returned with a slight amendment, taking away the discretion which had been invested in the State Legislatures as to the disposal of the proceeds. This bill, which had been before Congress the session before the last, which had passed at the last session, having been before the country for a whole year when it passed the two Houses, was placed before the Executive, with a number of other measures, just before the close of the last Congress. As the subject had been before the President for consideration so long previous to the passage of the bill, and he had reflected upon it, it was not to have been expected that he would take advantage of the shortness of the session to retain the bill until this time. Yet such had been the fact, and a proceeding had taken place which was unprecedented and alarming, and which, unless the people of this country were lost to all sense of what was due to the legislative branch of the Government, to themselves, and to those principles of liberty which had been transmitted to them from the revolution, they would not tolerate. It was at least due to the Legislature that the President should have sent a few lines, courteously informing them that, when his own mind was made up, he would communicate the result. But without deigning to make known his intention, or to impart the reasons which influenced him, he despotically kept silence, and retained the bill. Mr. C. begged leave to congratulate the Senate on the return of the bill. The question which now presented itself was, whether the bill was dead, in consequence of the non-action of the President, or whether it had become an existing law. He was not now about to discuss that question; but he had felt himself called on to

make a few observations on this extraordinary course, and to say that it was due to Congress, to the people, and to the Executive himself, to have informed the last Congress in reference to this subject, concerning which he must have made up his mind. He would now move to lay this bill on the table, and would afterwards give notice of a day when he should ask leave to bring in a bill in order to submit it again to the action of the Senate.

The motion to lay the bill upon the table was decided in the affirmative—Ayes 19.

Mr. BENTON moved to take up the Message for consideration.

Mr. MOORE thought that the Senator from Missouri would have another opportunity of offering what he wished to say; and he was himself desirous to move the printing of an extra number of the Message.

Mr. BENTON expressed a hope that he might be permitted to take as wide a range as the gentleman from Kentucky had taken. He wished to ask the Secretary to turn to the journal, and inform him on what day of the last session the bill was sent to the President. [The Secretary, having referred to the journal, replied, that it was sent to him on the 2d of March.] He wished the Senate to bear in mind that, as the 3d of March fell on a Sunday, the 2d was, in fact, the last day of the session. He then asked if there was not an ancient rule of Congress that prohibited the sending a bill to the President on the last day of the session? [Mr. KING answered that there was.] He then inquired if the sending of the bill on the 2d of March, last session, was not a violation of this rule? There was a precipitation and haste at the close of the session, which prevented not only the President, but the members themselves, from knowing precisely what they were doing. The rule to which he had adverted was set aside last session, and all the evils which accompany precipitation were the consequence. There were 142 acts put on the statute book last session. The 53d of these acts was signed on the 2d of March. So that there were about 90 acts signed on the last day of the session, and thus a mass of business was thrown on the President, which it was almost impossible to perform. And now the people were called on to revolt, and denunciations had gone forth that, if the people would put up with this, they would put up with any thing, because the President, in addition to all this mass of business, did not, on that day, write the paper which had now been read, and send the bill back. And this declaration was made in the presence of members who knew that it sometimes took them months to prepare a speech for the press, with the help of the note-takers and the speakers themselves, and all that were concerned. Yet the people were called on to revolt against the President for not preparing this paper in addition to all the legislative and executive business which pressed on him in the last few hours of the session. He had risen not only to de-

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fend the President, but to claim for him the approbation of all reflecting persons, for retaining the bill until he could have sufficient time to examine it, and prepare his reasons for objecting to it. Certainly, as far as he knew, the President had made up his mind at once in opposition to the bill, but no human hands could have written out the document itself. It had been found necessary to make several hundred references, all requiring extensive examination; but, leaving out all these, there was not time left even for the writing. He could not have gone through the mere manual labor. A great State paper was to be laid before the people; and the President was right to take time for reflection, and not throw back the bill *instantly*, as if he kicked it back in their faces, as much as to say that they had acted precipitately in their legislation. He repeated, that the President had acted in the manner most respectful to the Legislature. He had examined the subject, and had now, as explicitly as possible, said that he had weighed all the reasons which had been advanced in favor of the bill, and all the counteracting reasons which had operated upon him.

He had risen to defend the President from what he considered an unjustifiable and violent assault made upon him for doing what was his duty. As to the bill itself, seeing the manner in which the Western elections had terminated, he was ready to meet it in any form. He entirely concurred in the suggestion for the printing of an extra number of the Message.

Mr. CLAY said he did not rise to reply to any one who had felt himself called upon to rise in the Senate to vindicate the President. If there were any such member, he did not wish to disturb him in his office of vindicator of the President, or to affect the complacency with which he might regard his vindication. But he (Mr. C.) stood here to sustain his own course, to vindicate the constitution, and to vindicate the rights of Congress under it. And he must repeat, that the withholding of the land bill, at the last session, under all the circumstances of the case, was a violation of the constitution, and disrespectful to the Senate. What were the circumstances?

At two different sessions of Congress, the land subject was before it. At that which preceded the last, a bill had been introduced to distribute among the States the proceeds of the public lands. The whole subject, by the bill and by reports of committees, was laid before Congress and spread before the country. A copy of the bill, when it was first introduced, according to the constant practice of Congress, was sent to the President. He was thus, as well as the country generally, put in entire possession of the matter. It attracted great public attention. It engaged that of the President. And, accordingly, at the commencement of the last session, in his annual Message, he adverted to it, in a manner which evidently showed that the writer of the Message fully

understood it, and all the views which had been developed about it.

Thus was Congress, at the commencement of the last session, officially invited to act, and to act speedily, respecting the public lands; and thus did the President manifest his knowledge of the provisions of the bill of the previous session. Well, sir, (said Mr. C.) Congress again took up the question. The identical bill of the previous session was again introduced, and again, prior to its passage, placed before the President, along with the other printed documents, according to standing usage. And it was passed by both Houses, substantially in the shape in which at the previous session it was passed by the Senate, except that the restriction as to the power of the States to apply the sum to be distributed among the several States, after deduction of the twelve and a half per cent. first set apart for the new States, was stricken out.

In this form the bill was laid before the President on the 2d day of March last. It was no stranger, but an old acquaintance. He had seen it repeatedly before; and he must have been well informed as to its progress in Congress. He had commented on the very project contained in the bill, when he had brought forward his own, in his Message, at the opening of the session. Without deigning to communicate to Congress what disposition he had made, or meant to make of it, he permitted the body to rise in utter ignorance of his intentions.

It may be true that there was a great press of business on the President on the 2d of March, and that he may have acted upon some ninety or one hundred bills. But this is what occurs with every President on the day before the termination of the short session of Congress. With most of those bills the President must have been less acquainted than he was with the land bill. Of some of them he probably had never heard at all. Not one of them possessed the importance of the land bill. How did it happen that the President could find time to decide on so many new bills, and yet had not time to examine and dispose of one which had long been before him and the public; one embracing a subject which he thought the union, harmony, and interest of the States required should be speedily adjusted; one which he himself had pronounced his judgment upon at the commencement of this session? By withholding the bill, the President took upon himself a responsibility beyond the exercise of the veto. He deprived Congress altogether of its constitutional right to act upon the bill, and to pass it, his negative notwithstanding.

The President is, by the constitution, secured time to consider bills which shall have passed both branches of Congress. But so is Congress equally secured the right to act upon bills which they have passed, and which the President may have thought proper to reject. If he exercises his veto, and returns the bill, two-thirds may pass it. But if he withholds the bill, it cannot become

a law, even although the two Houses should be unanimously in its favor.

Mr. C. denied that the constitution gave to the President ten days to consider bills, except at the long session. At that session, the period of its termination is uncertain, and dependent upon the will of Congress. To guard against a sudden adjournment, by which the President might be deprived of due time to deliberate on an important bill, the constitution provides for ten days at that session. But, at the short session, it is not an adjournment, but a dissolution of Congress, on the 3d of March; and the day of that dissolution is fixed in the constitution itself, and known to all.

Mr. C. contended, therefore, that the act of withholding the bill was arbitrary and unconstitutional; by which Congress, and the Senate especially, in which the bill originated, were deprived of their constitutional right of passing on the bill, after the President had exercised his powers. Respect to Congress required of the President, if he really had not time to form a judgment on the bill, or, having formed it, had not time to lay his reasons before the body, a communication to that effect. But, without condescending to transmit one word upon the subject to Congress, he suffered the session to terminate, and the members to go home destitute of all information, until this day, of his intentions.

Mr. BENTON said that no quorum sat, in either House, on the evening after the day on which the bill was sent to the President.

The Message was then laid on the table.

Mr. MOORE moved that 5,000 extra copies of the Message be printed for the use of the Senate, which motion was adopted.

Rhode Island Senators.

On motion of Mr. WRIGHT, the Senate proceeded to consider the resolution offered by him yesterday.

The Senate then proceeded to ballot for the select committee, when the Chair announced that the following gentlemen composed the committee:

Messrs. POINDEXTER, RIVES, FREELINGHUYSEN, WRIGHT, and SPRAGUE.

MONDAY, December 9.

The Senate proceeded to the election of its officers, and, having balloted first for a Secretary,

Walter Lowrie received 89 ballots, being all that were given, and was accordingly declared to be unanimously re-elected Secretary of the Senate.

A balloting next took place for Sergeant-at-arms, when J. Shackford received 25 votes out of 40, and was elected.

The Senate proceeded to the election of an Assistant Doorkeeper, and, after six ballotings, Stephen Haight received 20 votes out of 39, and was accordingly elected.

TUESDAY, December 10.

Removal of the Deposits.

Mr. CLAY rose and said, that he desired to call the attention of the Senate to a subject, perhaps exceeding in importance any other question likely to come before the present Congress. He adverted to the report of the Secretary of the Treasury, (Mr. TANEY,) on the subject of the removal of the deposits. He then moved to take up this report for consideration.

The motion having been agreed to,

Mr. C. then said that the charter granted to the Bank of the United States provided for the deposit of the money of the United States in that bank and its branches. It vested in the Secretary of the Treasury the power to remove these deposits, whenever such removal should be required by the public interests; but it is further required that whenever he does remove the deposits, he shall submit to Congress his reasons for the act at their next session. A removal of the public deposits had been determined on. How this was to be effected, or at whose instance, was not at present the question to be considered. But a removal had taken place; and the Secretary had stated that this was done by his order, and he had laid before Congress his reasons. When Congress, at the time of the passage of the charter of the bank, made it necessary that these reasons should be submitted, they must have had some purpose in their mind. It must have been intended that Congress should look into these reasons, determine as to their validity, and approve or disapprove them, as might be thought proper. The reasons had now been submitted, and it was the duty of Congress to decide whether or not they were sufficient to justify the act. If there was a subject which, more than any other, seemed to require the prompt action of Congress, it certainly was that which had reference to the custody and care of the public treasury. The Senate, therefore, could not, at too early a period, enter on the question—what was the actual condition of the treasury! A high officer of the Government, who ought to be in the chair, now so honorably filled by the President *pro tem.*, and whose absence he (Mr. C.) sincerely regretted, had once told the Senate to see where the lost rights of the States were. Now he (Mr. C.) wished to discover where was the public treasury, and whether the public money was in safe custody.

It was not his purpose to go into a discussion, but he had risen to state that it appeared to him to be his duty as a Senator, and he hoped that other Senators took similar views of their duty, to look into this subject, and to see what was to be done. As the report of the Secretary of the Treasury had declared the reasons which had led to the removal of the public deposits, and as the Senate had to judge whether, on investigation of these reasons, the act was a wise one or not, he considered that it would not be right to refer the subject to any

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Election of Chaplain—Presidential Document.

[SENATE.]

committee, but that the Senate should at once act on it, not taking it up in the form of a report of a committee, but going into an examination of the reasons as they had been submitted.

He wished to make the report of the Secretary the order for some particular day, in the belief that the requisition made by the act of Congress on the Secretary of the Treasury for his reasons on the removal of the deposits, was doubtless intended to place the whole matter before Congress for consideration.

Mr. C. then moved to postpone the consideration of the report until Monday next, and to make it the special order for that day.

Mr. BENTON admitted that Congress had full power to go into the examination of the report. But he requested the Senate to bear in mind that the Secretary had announced, among other reasons which he had assigned for the removal of the deposits, that it had been caused by the misconduct of the bank, and he had gone into a variety of specifications, charging the bank with interfering with the liberties of the people in their most vital elements—the liberty of the press, and the purity of elections. The Secretary had also charged the bank with dishonoring its own paper on several occasions, and that it became necessary to compel it to receive paper of its own branches. Here, then, were grave charges of misconduct, and he wished to know whether, in the face of such charges, this Congress was to go at once, without the previous examination of a committee, into action upon the subject?

The motion was then agreed to, and the report was made the special order for Monday next.

Mr. CLAY then offered the following resolution. He believed that, by the rule of the Senate, it would have to lie one day. His object was to discover who it was that had made the removal of the deposits:

Resolved, That the President of the United States be requested to inform the Senate whether a paper, under date of the 18th day of September, 1833, purporting to have been read by him to the heads of the several departments, relating to the deposits of the public money in the treasury of the United States, and alleged to have been published by his authority, be genuine or not; and, if it be genuine, that he be also requested to cause a copy of the said paper to be laid before the Senate.

The resolution lies on the table.

Election of Chaplain.

The Senate proceeded to the election of a chaplain.

On the sixth ballot, Mr. Hatch received 23 votes out of 41, and was declared elected.

WEDNESDAY, December 11.

Presidential Document.

The following resolution, offered yesterday by Mr. CLAY, was then taken up for consideration:

"Resolved, That the President of the United States be requested to inform the Senate whether a paper, under date of the 18th day of September, 1833, purporting to have been read by him to the heads of the several departments, relating to the deposits of the public money in the treasury of the United States, and alleged to have been published by his authority, be genuine or not; and if it be genuine, that he be also requested to cause a copy of the said paper to be laid before the Senate."

Mr. FORSYTH said that this was an unusual call, and he was desirous to know for what purpose it had been made, and for what uses the paper which had been called for was intended. He presumed that no one had any doubt as to its genuineness. He had none.

Mr. CLAY replied, that the reasons for the call must be obvious, and would readily present themselves to every Senator; and, believing thus, he had not thought it necessary to suggest them. It had been said that the President had issued a particular paper, which he had read to the members of his cabinet, which had been promulgated to the public as his, and which was in the possession of the country as his. But the Senate had no official declaration of the President, nor any official communication to them of this paper, nor any thing in any form, from him, which affirmed that this paper was his. If the President had merely read a paper to the members of his cabinet, without promulgating that paper to the world, it would have presented a totally different question. Gentlemen would have reasonably doubted if they possessed a right to call for the production of a paper which was confidential between the President and the members of his cabinet. But this paper had been promulgated to the world; and therefore, the Senate, if it was the production of the President, had a right to call for an official copy, that they might thus be assured, from the highest source, that it was genuine. He had himself no doubt that the paper was genuine, but the fact only rested, at present, on the assertion of a newspaper, and it was not every assertion of every newspaper which was fully entitled to credit. The only testimony, now, was the assertion of the editor of a newspaper, and it was only respectful to the President to ask him for a copy; and if a copy was communicated, there could be no right to presume that it was not genuine.

Mr. FORSYTH said, if he understood the honorable Senator from Kentucky correctly, he admitted that with the intercourse between the President and his Secretaries, whether oral or written, the Senate had nothing to do. This view of the subject Mr. F. did not conceive to be affected by the publicity which, whether with or without the consent of the President, had been given to the paper referred to in the resolution. This paper was one said to have been addressed by the President of the United States to his confidential advisers. Mr. F. said he could not see why the honorable gentleman

from Kentucky should entertain any particular desire to get at this paper. What official use could he make of it, when he had got it? Why depart from usage by calling for such a paper as this, unless it was intended to make some official use of it? Mr. F. said he could imagine that one branch of the Legislature might, under certain circumstances, have a right to call for it, and, if it were refused when called for, to obtain it by the use of means within its power. But this was not that branch of the Legislature. If the paper in question was to be made the ground of a criminal charge against the President of the United States, it must come from another body, and must be a part of the evidence on which the President of the United States is to be brought to the bar of this body, under a charge of high crime or misdemeanor. The honorable Senator had suggested that the paper referred to might be of vast use in ascertaining by whom the deposits had been removed. As to that, Mr. F. said, there was no question that the deposits have been removed; whether proper or not, would, he presumed, become a subject of inquiry. He presumed, also, that, as to that act, the Senate had already sufficient information to enable the gentleman from Kentucky to form his judgment upon it. Mr. F. concluded by saying he could perceive no use that the Senate had for this paper; the call for it was of a nature entirely unusual; and he should therefore resist it, and require the yeas and nays upon the question of agreeing to it.

Mr. BENTON said that he had intended to ask for the yeas and nays, if the gentleman from Georgia had not done so, because he considered it due to the Senate that it should appear on the face of the journal who voted for, and who against the resolution. As to the information sought for from the President, it was impossible for the imagination to conceive the uses to which this information could be applied. The President had already communicated his reasons to all America. He might refuse to send a copy to the Senate, in answer to their call; and such a refusal would, in his opinion, be proper, in reference to the effect it might have in cases to arise hereafter. He asked if it was proper to call on the President to say if a document, which appeared in a newspaper, was his, was genuine or not? Was it proper that the Senate should call on the President to communicate to them a paper which he had read to the members of his cabinet? Supposing that, instead of a paper, the President had made a speech to his cabinet. What difference could be made between a written paper and a speech? He wished to know whether the Senate could have called on him to communicate a copy of his speech? If the Senate could do this, could they not go still further? and if they could call for this speech delivered to his cabinet, could they not also call for any thing which he had said to his cabinet, while sitting in his chair, and talking to them? And if they could do this,

could they not go still further, and call upon him for any thing he might have said in conversation to any single member, and which had by some means, got into a newspaper? Where, in fact, could a line be drawn? What if the members were lawyers; and he would ask of them what, in law, was the difference between words written and words spoken? Was not the whole of it parole? and the Senate might just as well call for what was spoken as for what was written. He had no doubt that a great many communications were made between the President and his cabinet on that day. The President might object to send a copy to the Senate. He had already given it to the world. Every Senator might take up the Globe, and read the paper, and might consider it the act of the President, and as much to be relied on as such as if he had before him the autograph of the President.

In asking for the yeas and nays, he had no desire to deter any member of the Senate from using this paper. It might be used from the Globe in which it was printed, as well as if a copy were communicated from the President. But his object was to prevent the Senate from putting a question to the President which he might not consider himself bound to answer.

Mr. WEBSTER said, that perhaps, after the various admissions which had now been made of the genuineness of the paper, the Senator from Kentucky might be induced to consider his purpose as well answered on that point, as if he retained the original phraseology of his resolution. And, in a modified form, he (Mr. W.) did not feel any objection to its adoption. He looked at the subject in a light somewhat different from that in which it was viewed by the gentleman from Georgia. If this was a letter to the heads of departments, it could hardly be an official document, and the Senate would have a right to call for it. His doubt was, whether it was an official act, which, as such, might come before the Senate without an express call. If it was a document which might come before the Senate in an official form, then the present motion might have been considered premature. But it could not be doubted by any one, that, before the close of the session, and it was impossible to tell how soon, there would be that before the Senate which would render it necessary to show how the removal of the deposits had been effected. That time would necessarily arrive, and he was desirous that all information on the subject should be communicated to the Senate. He was therefore influenced by a twofold motive. In the first place, he was satisfied that this subject must become a topic of discussion; and, secondly, he could not view this document as strictly an official act of the President. It had not been read to the cabinet only, but to the whole people. It appeared to embody instructions. It was a paper which did not essentially differ in its character from a proclamation. There was no existing statute which required of the President

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to send to the Senate a copy of a proclamation. But, during the last session, a certified copy of a proclamation had been sent to the Senate. And although this was not, in the strictest sense, an official proceeding, it was intended to be a public defence of an official act. If the resolution had been simply a call for that paper, he should feel himself bound to sustain it, as he last year supported a call for the proclamation to which he had alluded. He would therefore suggest, that the part of the resolution which inquired as to the genuineness of the paper, and which carried on its face an implication, should be stricken out, and that the genuineness of the paper should be taken as admitted, and that the proposition should be merely a call for the paper. With the consent, therefore, of the Senator from Kentucky, (and certainly not without it,) he would move to amend the resolution, by striking out all after the word "Resolved," and inserting as follows:

"That the President be requested to send to the Senate a copy of the paper which has been published, and which purports to have been read by him to the heads of the executive departments, dated the 18th day of September last, relating to the removal of the deposits of the public money from the Bank of the United States and its offices."

The amendment was then modified according to the suggestion of Mr. WESTER.

Mr. CALHOUN should vote for the resolution, although he was far from feeling any disrespect for the President. He considered the official communication of this paper as due to the dignity of the Senate, and to the Chief Magistrate himself. And he submitted it to the good sense of gentlemen, if it would be treating the President with proper respect to predicate any action of the Senate, in reference to so important a subject, on newspaper authority.

Mr. KIRK made a few remarks in opposition to the resolution. He did not see how the Senate were to act on this document; thought that they had no right to call for it; and expressed a belief that the President might, under the same impression, refuse to communicate it.

Mr. KANE gave briefly the reasons which would influence him to oppose the resolution. It was stated as one of the objects that it was to discover who had removed the deposits. If that was the object, the question had been already answered by the President and Secretary of the Treasury. But if the object was to show that the President had made a full statement, then the subject ought to be agitated in the other House, and not here, in the shape of a criminal charge.

The question was taken on agreeing to the resolution, and decided as follows:

YEAS.—Messrs. Bell, Bibb, Calhoun, Chambers, Clay, Ewing, Fraleighuyzen, Hendricks, Kent, Knight, Mangum, Naudain, Poindexter, Prentiss, Preston, Robbins, Silsbee, Smith, Southard, Sprague, Swift, Tomlinson, Webster—23.

NAYS.—Messrs. Benton, Brown, Forsyth, Grundy, Hill, Kane, King, Moore, Morris, Rives, Robinson,

Shepley, Tallmadge, Tipton, Tyler, White, Wilkins, Wright—18.

So the resolution was agreed to.

THURSDAY, December 12.

The following Message was received from the President of the United States:

WASHINGTON, December 12, 1833.

To the Senate of the United States:

I have attentively considered the resolution of the Senate, of the 11th instant, requesting the President of the United States to communicate to the Senate "a copy of the paper which has been published, and which purports to have been read by him to the heads of the executive departments, dated the 18th day of September last, relating to the removal of the deposits of the public money from the Bank of the United States and its offices."

The Executive is a co-ordinate and independent branch of the Government equally with the Senate; and I have yet to learn under what constitutional authority that branch of the Legislature has a right to require of me an account of any communication, either verbally or in writing, made to the heads of departments acting as a cabinet council. As well might I be required to detail to the Senate the free and private conversation I have held with those officers on any subjects relating to their duties and my own.

Feeling my responsibility to the American people, I am willing, upon all occasions, to explain to them the grounds of my conduct; and I am willing, upon all proper occasions, to give to either branch of the Legislature any information in my possession that can be useful in the execution of the appropriate duties confided to them.

Knowing the constitutional rights of the Senate, I shall be the last man, under any circumstances, to interfere with them. Knowing those of the Executive, I shall, at all times, endeavor to maintain them, agreeably to the provisions of the constitution, and the solemn oath I have taken to support and defend it.

I am constrained, therefore, by a proper sense of my own self-respect, and of the rights secured by the constitution to the executive branch of the Government, to decline a compliance with your request.

ANDREW JACKSON.

The Message having been read,

Mr. CLAY rose and said, that the call, to which this Message was a response, had been made upon the President after full deliberation. The right to make it was founded upon the presumed act of the President. It was founded upon the fact of the promulgation of the State paper emanating from the President relating to the deposits of the public money of the people of the United States, with the President's assent and direction. That paper had been published to the world, with the sanction of the President. It was now in the full possession of the people of the United States. It had been published to make an impression, and it had made a deep impression on their minds. But still it had been published on authority alleged by the editor of a newspaper to be derived

from the President. Whether the paper was, in fact, genuine, or, if genuine, whether it was promulgated with the President's sanction, were questions respecting which we had no evidence, but that which the assertion of the editor of the paper itself, and concurring circumstances, afforded. In this situation it was, by (Mr. C.) himself, and he supposed by those who voted with him in supporting the call, deemed due and respectful to the President, due to the Senate, and due to the whole country, to appeal to the highest source of information in relation to this subject, and to request an authentic and official copy of the paper itself.

This call was in conformity with established usage, coeval, he (Mr. C.) believed, with the Government. Whenever either branch of Congress desires a public paper in the possession of, or proceeding from, the Executive, it has called for it. Innumerable instances of such calls are to be found in the journals of the two Houses.

Mr. GRUNDY said that he had always himself believed the motion calling for this paper unnecessary, and that no benefit could result from it. It was unnecessary, because evidence of a fact was only required when the fact itself was disputed. There was no dispute in this case. Friends and enemies had considered this paper as an authentic one. Why, then, was it necessary to call on the President for evidence that it was so?

He concluded with moving to lay the Message on the table; and the motion was agreed to.

MONDAY, December 16.

The VICE PRESIDENT of the United States, MARTIN VAN BUREN, this day took his seat in the chair of the Senate, and delivered the following address:

SENATORS: On entering on the duties of the station to which I have been called by the people, deference to you, and justice to myself, require that I should forestall expectations which might otherwise be disappointed. Although for many years heretofore a member of the Senate, I regret that I should not have acquired that knowledge of the particular order of its proceedings which might naturally be expected. Unfortunately for me, in respect to my present condition, I ever found those at hand who had more correctly appreciated this important branch of their duties, and on whose opinions, as to points of order, I could at all times safely rely. This remissness will, doubtless, for a season, cause me no small degree of embarrassment. So far, however, as unremitting exertions on my part, and a proper respect for the advice of those who are better informed than myself, can avail, this deficiency will be remedied as speedily as possible; and I feel persuaded that the Senate, in the mean time, will extend to me a considerate indulgence.

But, however wanting I may be, for the time, in the thorough knowledge of the technical duties of the Chair, I entertain, I humbly hope, a deep and solemn conviction of its high moral obligations. I am well aware that he who occupies it is bound to

cherish towards the members of the body over which he presides no other feelings than those of justice and courtesy; to regard them all as standing upon an honorable equality; to apply the rules established by themselves, for their own government, with strict impartiality; and to use whatever authority he possesses in the manner best calculated to protect the rights, to respect the feelings, and to guard the reputations of all who may be affected by its exercise.

It is no disparagement to any other branch of the Government to say, that there is none on which the constitution devolves such extensive powers as it does upon the Senate. There is scarcely an exercise of constitutional authority in which it does not mediate or immediately participate; it forms an important, and, in some respects, an indispensable part of each of the three great departments, executive, legislative, and judicial; and is, moreover, the body in which is made effectual that share of power in the federal organization so wisely allowed to the respective State sovereignties.

Invested with such august powers, so judiciously restricted, and so largely adapted to the purposes of good government, it is no wonder that the Senate is regarded by the people of the United States as one of the best features in what they at least consider to be the wisest, the freest, and happiest political system in the world. In fervent wishes that it may long continue to be so regarded, and in a conviction of the importance of order, propriety, and regularity in its proceedings, we must all concur. It shall be an object of my highest ambition, Senators, to join with you, as far as in me lies, in effecting those desirable objects, and in endeavoring to realize the expectation formed of this body at the adoption of the constitution, and ever since confidently cherished, that it would exercise the most efficient influence in upholding the federal system, and in perpetuating what is at once the foundation and the safeguard of our country's welfare—the Union of the States.

THURSDAY, December 26.

Removal of the Deposits.

The Chair having announced the special order of the day, being the report of the Secretary of the Treasury on the subject of the removal of the public deposits from the Bank of the United States,

Mr. CLAY offered the following resolutions:

1. *Resolved*, That, by dismissing the late Secretary of the Treasury, because he would not, contrary to his sense of his own duty, remove the money of the United States in deposit with the Bank of the United States and its branches, in conformity with the President's opinion; and by appointing his successor to effect such removal, which has been done, the President has assumed the exercise of a power over the Treasury of the United States, not granted to him by the constitution and laws, and dangerous to the liberties of the people.

2. *Resolved*, That the reasons assigned by the Secretary of the Treasury for the removal of the money of the United States, deposited in the Bank of the United States and its branches, communicated to Congress on the 3d day of December, 1833, are unsatisfactory and insufficient.

Mr. CLAY addressed the Senate as follows:

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We are, said he, in the midst of a revolution, hitherto bloodless, but rapidly tending towards a total change of the pure republican character of the Government, and to the concentration of all power in the hands of one man. The powers of Congress are paralyzed, except when exerted in conformity with his will, by frequent and extraordinary exercise of the executive veto, not anticipated by the founders of the constitution, and not practised by any of the predecessors of the present Chief Magistrate. And, to cramp them still more, a new expedient is springing into use, of withholding altogether bills which have received the sanction of both Houses of Congress, thereby cutting off all opportunity of passing them, even if, after their return, the members should be unanimous in their favor. The constitutional participation of the Senate in the appointing power is virtually abolished, by the constant use of the power of removal from office without any known cause, and by the appointment of the same individual to the same office, after his rejection by the Senate. How often have we, Senators, felt that the check of the Senate, instead of being, as the constitution intended, a salutary control, was an idle ceremony? How often, when acting on the case of the nominated successor, have we felt the injustice of the removal? How often have we said to each other, well, what can we do? The office cannot remain vacant without prejudice to the public interests; and, if we reject the proposed substitute, we cannot restore the displaced, and perhaps some more unworthy man may be nominated?

The Judiciary has not been exempted from the prevailing rage for innovation. Decisions of the tribunals, deliberately pronounced, have been contemptuously disregarded, and the sanctity of numerous treaties openly violated. Our Indian relations, coeval with the existence of the Government, and recognized and established by numerous laws and treaties, have been subverted; the rights of the helpless and unfortunate aborigines trampled in the dust, and they brought under subjection to unknown laws, in which they have no voice, promulgated in an unknown language. The most extensive and most valuable public domain that ever fell to the lot of one nation is threatened with a total sacrifice. The general currency of the country, the life-blood of all its business, is in the most imminent danger of universal disorder and confusion. The power of internal improvement lies crushed beneath the veto. The system of protection of American industry was snatched from impending destruction at the last session; but we are now coolly told by the Secretary of the Treasury, without a blush, "that it is understood to be *conceded on all hands* that a tariff for protection merely is to be finally abandoned." By the 8d of March, 1837, if the progress of innovation continue, there will be scarcely a vestige remaining of the Government and its policy, as they exists prior to the 8d of March, 1829. In a term of

years, a little more than equal to that which was required to establish our liberties, the Government will have been transformed into an elective monarchy—the worst of all forms of government.

Such is a melancholy but faithful picture of the present condition of our public affairs. It is not sketched or exhibited to excite, here or elsewhere, irritated feeling: I have no such purpose. I would, on the contrary, implore the Senate and the people to discard all passion and prejudice, and to look calmly but resolutely upon the actual state of the constitution and the country. Although I bring into the Senate the same unabated spirit, and the same firm determination, which have ever guided me in the support of civil liberty, and the defence of our constitution, I contemplate the prospect before us with feelings of deep humiliation and profound mortification.

It is not among the least unfortunate symptoms of the times, that a large proportion of the good and enlightened men of the Union, of all parties, are yielding to sentiments of despondency. There is, unhappily, a feeling of distrust and insecurity pervading the community. Many of our best citizens entertain serious apprehensions that our Union and our institutions are destined to a speedy overthrow. Sir, I trust that the hopes and confidence of the country will revive. There is much occasion for manly independence and patriotic vigor, but none for despair. Thank God, we are yet free; and, if we put on the chains which are forging for us, it will be because we deserve to wear them. We should never despair of the republic. If our ancestors had been capable of surrendering themselves to such ignoble sentiments, our independence and our liberties would never have been achieved. The winter of 1776-'7, was one of the gloomiest periods of our revolution; but on this day, fifty-seven years ago, the father of his country achieved a glorious victory, which diffused joy, and gladness, and animation throughout the States. Let us cherish the hope that, since he has gone from among us, Providence, in the dispensation of his mercies, has near at hand in reserve for us, though yet unseen by us, some sure and happy deliverance from all impending dangers.

When we assembled here last year, we were full of dreadful forebodings. On the one hand, we were menaced with a civil war, which, lighting up in a single State, might spread its flames throughout one of the largest sections of the Union. On the other, a cherished system of policy, essential to the successful prosecution of the industry of our countrymen, was exposed to imminent danger of destruction. Means were happily applied by Congress to avert both calamities, the country was reconciled, and our Union once more became a band of friends and brothers. And I shall be greatly disappointed, if we do not find those who were denounced as being unfriendly to the continuance of our con-

federacy, among the foremost to fly to its preservation, and to resist all executive encroachments.

Mr. President, when Congress adjourned at the termination of the last session, there was one remnant of its powers—that over the purse—left untouched. The two most important powers of civil government are those of the sword and purse; the first, with some restrictions, is confided by the constitution to the executive, and the last to the legislative department. If they are separate, and exercised by different responsible departments, civil liberty is safe; but if they are united in the hands of the same individual, it is gone. That clear-sighted and revolutionary orator and patriot, Patrick Henry, justly said, in the Virginia convention, in reply to one of his opponents, "Let him candidly tell me where and when did freedom exist, when the sword and purse were given up from the people? Unless a miracle in human affairs interposed, no nation ever retained its liberty after the loss of the sword and the purse. Can you prove, by any argumentative deduction, that it is possible to be safe without one of them? If you give them up, you are gone."

Up to the period of the termination of the last session of Congress, the exclusive constitutional power of Congress over the Treasury of the United States had never been contested. Among its earliest acts was one to establish the Treasury Department, which provided for the appointment of a Treasurer, who was required to give bond and security, in a very large amount, "to receive and keep the moneys of the United States, and disburse the same upon warrants drawn by the Secretary of the Treasury, countersigned by the Comptroller, recorded by the Register, and not otherwise." Prior to the establishment of the present Bank of the United States, no treasury or place had been provided or designated by law for the safe keeping of the public moneys, but the Treasurer was left to his own discretion and responsibility. When the existing bank was established, it was provided that the public moneys should be deposited with it, and consequently that bank became the treasury of the United States; for, whatever place is designated by law for the keeping of the public money of the United States, under the care of the Treasurer of the United States, is, for the time being, the treasury. Its safety was drawn in question by the Chief Magistrate, and an agent was appointed a little more than a year ago to investigate its ability. He reported to the Executive that it was perfectly safe. His apprehensions of its solidity were communicated by the President to Congress, and a committee was appointed to examine the subject: they, also, reported in favor of its security. And, finally, among the last acts of the House of Representatives, prior to the close of the last session, was the adoption of a resolution, manifesting its entire confidence in the ability and solidity of the bank.

After all these testimonies to the perfect

safety of the public moneys in the place appointed by Congress, who could have supposed that the place would have been changed? Who could have imagined that, within sixty days of the meeting of Congress, and, as it were, in utter contempt of its authority, the change should have been ordered? Who would have dreamed that the Treasurer should have thrown away the single key to the treasury, over which Congress held ample control, and accepted, in lieu of it, some dozens of keys, over which neither Congress nor he has any adequate control? Yet, sir, all this has been done; and it is our solemn duty to inquire, 1st, by whose authority it has been ordered; and 2d, whether the order has been given in conformity with the Constitution and laws of the United States.

The first question which I have intimated it to be my purpose to consider is, by whose authority, power, or direction, was the change of the deposits made? Now, is there any Senator who hears me that requires proof on this point? Is there an intelligent man in the Union who does not know who it was that decided the removal of the deposits? Is it not a matter of universal notoriety? Does any one, and who, doubt that it was the act of the President?—that it was done by his express command? The President, on this subject, has himself furnished perfectly conclusive evidence, in the paper read by him to his cabinet. It is, indeed, a most extraordinary document, without precedent in the executive annals of this or any other civilized country. If the proceeding were not unconstitutional, it was certainly such as was not contemplated by the constitution. That instrument confers on the President the right to require the opinion, in writing, of the principal officers of the executive departments, separately, on subjects appertaining to their respective offices. Instead of conforming to this provision, the President reads to those officers, collectively, his opinion and decision, in writing, upon an important matter which related only to one of them, and to him exclusively. This paper is afterwards formally promulgated to the world, with the President's authority. And why? Can it be doubted that it was done under the vain expectation that *a name* would quash all inquiry, and secure the general approbation of the people? Those who now exercise power in this country appear to regard all the practices and usages of their predecessors as wrong. They look upon all precedents with contempt, and, casting them scornfully aside, appear to be resolved upon a new era in administration. Yet, when hard pressed, they display a readiness to take shelter under any precedent, however ill adapted it may be to their condition. Although the President has denied to the Senate an official copy of that singular paper, as a part of the people of the United States, for whose special benefit it was published, we have a right to use it.

The question is, by virtue of whose will,

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power, dictation, was the removal of the deposits effected? By whose authority and determination were they transferred from the Bank of the United States, where they were required by the law to be placed, and put in banks which the law had never designated? And I tell gentlemen opposed to me, that I am not to be answered by the exhibition of a formal order bearing the signature of R. B. Taney, or any one else. I want to know, not the amanuensis or clerk who prepared or signed the official form, but the authority or the individual who dictated or commanded it; not the hangman who executes the culprit, but the tribunal which pronounced the sentence. I want to know that power in the Government, that original and controlling authority, which required and commanded the removal of the deposits. And, I repeat the question, is there a Senator, or intelligent man in the whole country, who entertains a solitary doubt?

Hear what the President himself says in his manifesto read to his cabinet: "The President deems it *his* duty to communicate in this manner to his cabinet the final conclusions of *his own mind*, and the reasons on which they are founded." And, at the conclusion of this paper, what does he say? "The President again repeats that he begs his cabinet to consider the proposed measure as *his own*, in the support of which he shall require no one of them to make a sacrifice of opinion or principle. *Its responsibility has been assumed*, after the most mature deliberation and reflection, as necessary to preserve the morals of the people, the freedom of the press, and the purity of the elective franchise, without which all will unite in saying that the blood and treasure expended by our forefathers, in the establishment of our happy system of government, will have been vain and fruitless. Under these convictions, he feels that a measure so important to the American people cannot be commenced too soon; and *he* therefore names the 1st day of October next as a period proper for the change of the deposits, or sooner, provided the necessary arrangements with the State banks can be made." Sir, is there a Senator here who will now tell me that the removal was not the measure and the act of the President? I know, indeed, that there are in this document many of those most mild, most gracious, most condescending expressions, in which power so well knows how to clothe its mandates. The President flatters, and coaxes, and soothes Secretary Duane, in the most gentle, bland, and conciliating language. "In the remarks," says the President, "he has made on this all-important question, he trusts the Secretary of the Treasury will see only the frank and respectful declaration of the opinions which the President has formed on a measure of great national interest, deeply affecting the character and usefulness of his administration; and not a spirit of dictation, which the President would be as careful to avoid as ready to resist. Happy will he be if the facts now dis-

closed produce uniformity of opinion and unity of action among the members of the administration." How kind! how gentle! and how very gracious all these civil and loving expressions must have sounded in the gratified ear of Mr. Duane! They remind me of an historical anecdote related of one of the most remarkable characters which our species has produced. When Oliver Cromwell was contending for the mastery in Great Britain or Ireland, (I do not remember which,) he besieged a certain Catholic town. The place made a brave and stout resistance; but, at length, being likely to be taken, the poor Catholics proposed terms of capitulation, among which was one stipulating for the toleration of their religion. The paper containing the conditions being presented to Oliver, he put on his spectacles, and, after deliberately examining them, cried out, "Oh, yes, granted, granted, certainly;" but he added, with stern determination, "if one of them shall dare to be found attending mass, he shall be instantly hanged," (under what section—whether the *second* or some other, I believe the historian does not relate.)

Thus the Secretary was told by the President that he had not the slightest wish to dictate—Oh! no; nothing was further from his intention; *that* he would carefully avoid; the President desired only to convince his judgment, but not at all to interfere with his free exercise of an authority exclusively confided to him. But what was the refractory Duane told in the sequel? If you do not conform to my wishes; if you do not surrender your own judgment, and act upon mine; if you do not effect the removal of these deposits within the short period prescribed by me, you shall quit your office. And what was the fact? This cabinet paper bears date the 18th September last. In the official paper, published at the seat of Government, through which the Executive promulgates its acts, intentions, and wishes to the people of the United States, on the 20th of the same month, two days only after the cabinet had been indoctrinated, it was stated, "We are *authorized* to state"—"authorized!"—this is the term which gave credit to the annunciation—"We are authorized to state, that the deposits of the public money will be changed from the Bank of the United States to the State banks, as soon as the necessary arrangements can be made for that purpose, and it is believed they can be completed in Baltimore, Philadelphia, New York, and Boston, in time to make the change by the 1st of October, and perhaps sooner, if circumstances should render an earlier action necessary on the part of the Government." We see, between the cabinet paper and this official article, not merely a coincidence of time, but of language, as if the same head had dictated, and the same pen had written both. The President names the 1st day of October, or sooner, if the necessary arrangements can be made; and the gazette announces the same 1st day of October, and perhaps sooner,

if circumstances should render it necessary. Mr. Duane remained in office until the 23d of September, on which day he was dismissed. Is this not conclusive testimony that the measure was the President's; that he, not the Secretary of the Treasury, decided upon it; that it was resolved on whilst Mr. Duane was yet in office; and that it was formally announced to the world before his dismissal? As to the day of his dismissal, we have incontestable evidence in the letter addressed to him on the 23d of September by the President, in which, notwithstanding all the amicable, gracious, and affectionate language of the cabinet paper, the President says, "I feel constrained to notify you that your further services as Secretary of the Treasury are no longer required." On that same day, (the 23d,) Mr. Taney was appointed; and on the 26th, in conformity with the will of the President, he performed the clerical act of affixing his signature to the order for the removal of the deposits, and thus made himself a willing instrument to consummate what the sterner integrity of his predecessor disdained to execute. Such is the testimony, on one side, to sustain the proposition that the removal of the deposits was the President's own measure, determined on whilst the late Secretary was still in office, and against his will; and establishing, beyond contradiction, that the subsequent act of the present Secretary was in form ministerial, in substance the work of another. Can more satisfactory testimony be ever needed? Yet it is even still more complete. We have that of Mr. Duane, as if no single link in the chain should be left unsupplied. In a late publication from that gentleman, addressed to the American people, after giving a history of the circumstances which preceded and accompanied his appointment, and those which attended his expulsion from office, he says: "Thus was I thrust from office—not because I had neglected any duty; not because I had differed with the President on any other point of public policy; not because I had differed with him about the Bank of the United States; but because I refused, without further inquiry for action by Congress, to remove the deposits."

Is it possible that evidence can be more complete? Will any one, after this exhibition of concurring proof, derived directly from the President on one side, and from the late Secretary on the other, that the removal of the deposits was not only the President's own act, but was contrary to the will and judgment of the Secretary, who was himself removed because he would not remove them, for a single instant doubt on the subject? Can any one rise here, in his place, and assert that the removal was not accomplished by the President's authority or command?

And, now, sir, having distinctly seen whose measure this is, I shall proceed to inquire whether it has been adopted in conformity with the Constitution and laws of the United States. I repeat that it is not my purpose now to

examine the reasons assigned for the act, further than as they may tend to show a right in the President to perform it. For if the President had no power over the subject; if the constitution and laws, instead of conveying to him an authority to act as he has done, required him to keep his hands off the public treasury, and confided its care and custody to other hands, no reasons can justify the usurpation. What power has the President over the public treasury? Is it in the bank charter? That gives him but two clearly defined powers: one to appoint, with the concurrence of the Senate, and to remove the Government directors; and the other, to order a *scire facias* when the charter shall be violated by the bank. There is no other power conferred on him by it. The clause of the charter relating to the public deposits declares, "that the deposits of the money of the United States, in places in which the said bank and the branches thereof may be established, shall be made in said bank, or branches thereof, unless the Secretary of the Treasury shall, at any time, otherwise order and direct; in which case the Secretary of the Treasury shall immediately lay before Congress, if in session, and, if not, immediately after the commencement of the next session, the reasons of such order or direction." Can language, as to the officer who is charged with the duty of removing the deposits, be more explicit? The Secretary of the Treasury alone is designated. The President is not, by the remotest allusion, referred to. And, to put the matter beyond all controversy, whenever the Secretary gives an order or direction for the removal, he is to report his reasons—to whom? To the President? No! directly to Congress. Nor is the bank itself required to report its periodical condition to the President, but to the Secretary of the Treasury, or to Congress, through the organ of a committee. The whole scheme of the charter seems to have been cautiously framed with the deliberate purpose of excluding all intervention of the President, except in the two cases which have been specified. And this power, given exclusively to the Secretary, and these relations maintained between him and Congress, are in strict conformity with the act of September, 1789, creating and establishing the Treasury Department. Congress reserved to itself the control over that department. It refused to make it an executive department. Its whole structure manifests cautious jealousy and experienced wisdom. The constitution had ordained that no money should be drawn from the treasury but in consequence of appropriations made by law. It remained for Congress to provide *how* it should be drawn. And that duty is performed by the act constituting the Treasury Department. According to that act, the Secretary of the Treasury is to prepare and sign, the Comptroller to countersign, the Register to record, and, finally, the Treasurer to pay a warrant issued, *and only issued* in virtue of a prior act of appropriation. Each is referred to

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the law as the guide of his duty; each acts on his own separate responsibility; each is a check upon every other; and all are placed under the control of Congress. The Secretary is to report to Congress, and to each branch of Congress. The great principle of division of duty, and of control and responsibility—that principle which lies at the bottom of all free government—that principle, without which there can be no free government—is upheld throughout. So, in the bank charter, Congress did not choose to refer the reasons of the Secretary to the President; but, whenever he changed the deposits, the Secretary was commanded to report his reasons directly to Congress, that they might weigh, judge, and pronounce upon their validity.

Thus it is evident that the President, neither by the act creating the Treasury Department, nor by the bank charter, has any power over the public treasury. Has he any by the constitution? None, none. We have already seen that the constitution positively forbids any money from being drawn from the treasury but in virtue of a previous act of appropriation. But the President himself says that "upon him has been devolved, by the constitution, and the suffrages of the American people, the duty of superintending the operation of the executive departments of the Government, and seeing that the laws are faithfully executed." If there existed any such double source of executive power, it has been seen that the Treasury Department is not an executive department; but that, in all that concerns the public treasury, the Secretary is the agent or representative of Congress, acting in obedience to their will, and maintaining a direct intercourse with them. By what authority does the President derive power from the mere result of an election? In another part of this same cabinet paper he refers to the suffrages of the people as a source of power independent of the constitution, if not overruling it. At all events, he seems to regard the issue of the election as an approbation of all constitutional opinions previously expressed by him, no matter in what ambiguous language. I differ, sir, entirely from the President. No such conclusions can be legitimately drawn from his re-election. He was re-elected from his presumed merits generally, and from the attachment and confidence of the people, and also from the unworthiness of his competitor. The people had no idea, by that exercise of their suffrage, of expressing their approbation of all the opinions which the President held. Can it be believed that Pennsylvania, so justly denominated the keystone of our federal arch, which has been so steadfast in her adherence to certain great national interests, and among others, to that of the Bank of the United States, intended, by supporting the re-election of the President, to reverse all her own judgments, and to demolish all that she had built up? The truth is, that the re-election of the President no more proves that the people had sanctioned all the opinions previously expressed by him,

than, if he had had the king's evil or a carbuncle, it would demonstrate that they intended to sanction his physical infirmity.

But the President infers his duty to remove the deposits from the constitution and the suffrages of the American people. As to the latter source of authority, I think it confers none. The election of a President, in itself, gives no power, but merely designates the person who, as an officer of the Government, is to exercise power granted by the constitution and laws. In this sense, and in this sense only, does an election confer power. The President alleges a right in himself to superintend the operations of the executive departments from the constitution and the suffrages of the people. Now, neither grants any such right. The constitution gives him the power, and no other power, than to call upon the heads of each of the executive departments to give his opinion, in writing, as to any matter connected with his department. The issue of the election simply puts him in a condition to exercise that right. By the laws, not by the constitution, all the departments, with the exception of that of the treasury, are placed under the direction of the President. And, by various laws, specific duties of the Secretary of the Treasury, (such as contracting for loans, &c.,) are required to be performed under the direction of the President. This is done from greater precaution; but his power, in these respects, is derived from the laws, and not from the constitution. Even in regard to those departments other than that of the treasury, in relation to which by law, and not by the constitution, a control is assigned to the Chief Magistrate, duties may be required of them, by the law, beyond his control, and for the performance of which their heads are responsible. This is true of the State Department, that which, above all others, is most under the immediate direction of the President. And this principle, more than thirty years ago, was established in the case of *Marbury against Madison*. The Supreme Court, in that case, expressed itself in the following language:

"By the Constitution of the United States the President is invested with certain important political powers, in the exercise of which he is to use his own discretion, and is accountable only to his country in his political character, and to his own conscience. To aid him in the performance of these duties, he is authorized to appoint certain officers, who act by his authority, and in conformity with his orders.

"In such cases their acts are his acts; and, whatever opinion may be entertained of the manner in which executive discretion may be used, still there exists, and can exist, no power to control that discretion. The subjects are political. They respect the nation, not individual rights; and, being intrusted to the Executive, the decision of the Executive is conclusive. The application of this remark will be perceived by adverting to the act of Congress for establishing the Department of Foreign Affairs. This officer, as his duties were prescribed by that act, is to conform precisely to the

will of the President. He is the mere organ by whom that will is communicated. The acts of such an officer, as an officer, can never be examinable by the courts.

"But when the Legislature proceeds to impose on that officer other duties, when he is directed peremptorily to perform certain acts, [that is, when he is not placed under the direction of the President,] when the rights of individuals are dependent on the performance of those acts, he is so far the officer of the law, is amenable to the laws for his conduct, and cannot, at his discretion, sport away the vested rights of others.

"The conclusion from this reasoning is, that where the heads of departments are the political or confidential agents of the Executive, merely to execute the will of the President, or rather to act in cases in which the Executive possesses a constitutional or legal discretion, nothing can be more perfectly clear than that their acts are only politically examinable. But where a specific duty is assigned by law, and individual rights depend upon the performance of that duty, it seems equally clear that the individual who considers himself injured, has a right to resort to the laws of his country for a remedy."

Although I am constrained to believe that the President has been mistaken in asserting that the duty has been devolved upon him by the constitution and by the suffrages of the American people to superintend the operation of the executive departments, and consequently to order the removal of the public deposits, if he deemed such removal was expedient, he is charged by the constitution to "take care that the laws be faithfully executed." And the question is, what does this injunction really import? It has been contended, under it, that the executive aid or co-operation ought not, in any case, to be given, but when the Chief Magistrate himself is persuaded that it is to be lent to the execution of a law of the United States; and that, in all instances where he believes that the law is otherwise than it has been settled or adjudicated, he may withhold the means of execution with which he is invested. In other words, this enormous pretension of the Executive claims that if a treaty or law exists, contrary to the constitution, in the President's opinion; or if a judicial opinion be pronounced in his opinion repugnant to the constitution, to a treaty, or to a law, he is not bound to afford the executive aid in the execution of any such treaty, law, or decision. If this be sound doctrine, it is evident that every thing resolves itself into the President's opinion. There is an end to all constitutional Government, and a sole functionary engrosses the whole power supposed hitherto to have been assigned to various responsible officers, checking and checked by each other. Can this be true? Is it possible that there is any one so insensible to the guarantees of civil liberty as to subscribe to this monstrous pretension? In respect even to affairs of ordinary administration, how enormous would it be! Various officers of Government are charged with the liquidation of most

important accounts of contractors and others concerned in the disbursement, annually, of large sums of the public revenue. The rejection or allowance of a single item of these accounts may fix the fate of the contractor or disbursing agent. Hitherto this matter was supposed to be judicial in its nature, and beyond executive control; but let this new heresy be sanctioned, and the President may say to an Auditor or Comptroller, pass this, or reject that item in the account, (such is my opinion of the law;) and if you do not, I will remove you from office. Let this doctrine be once established, and there is an end to all regulated Government, to all civil liberty. It will become a machine *simple* enough. There will be but one will in the State; but one bed, and that will be the bed of Procrustes! All the departments, legislative, judicial, and executive, and all subordinate functionaries, must lie quietly on it; but it will be the repose of despotism and death.

Sir, such an enormous and extravagant pretension cannot be sanctioned. It must be put alongside of its exploded compeer, the power once asserted for Congress to pass any and all laws called for by "the general welfare."

The charter of the bank requires that the public deposits be made in its vaults. It gives the Secretary of the Treasury power to remove them; and why? Because he is placed by Congress at the head of the finances of the Government. Weekly reports of the condition of the bank are made to him; he is the sentinel of Congress, the agent of Congress, the representative of Congress, created by Congress; his duties are prescribed and defined by Congress. To them, and not to the President, he is to report. His vigilance is presumed to anticipate or promptly to perceive the existence of danger, and, when he discovers it, his duty is to provide for the safety of the public treasure, and forthwith to report to his principal. Standing in this responsible attitude to Congress, and to Congress alone, if the President may go to that officer, and tell him to do as he bids, or he shall be removed from office, what security remains to the people of this country?

But let me suppose that I am totally mistaken in this construction of the constitutional injunction, and that its true meaning is that the President has the power to superintend the execution of every particular law *exactly* as Congress intended it, what was it his duty to do in this case, under that interpretation of the constitution? The law authorized the Secretary of the Treasury, on his own responsibility, to remove the deposits. It commanded him, if he removed them, to report *his* reasons to Congress. The duty was confided to his judgment and discretion exclusively, and his judgment was to be guided by *his* own reasons, not those of any other; and *they*, and no other, were to be reported to Congress. Now, if the President was bound to take care that that law should be faithfully executed, then his duty

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exacted of him to see that the Secretary of the Treasury was allowed the exercise of his free, unbiased, and uncontrolled judgment in removing or not removing the deposits. *That* was the faithful execution of the law. Congress had not said that the Secretary of State, the Secretary of War, or the Secretary of the Navy should remove them, but the Secretary of the Treasury. The President had no right, either by the constitution or the law, to go to the other Secretaries, and ask them how a service should be performed, which was confided exclusively to the judgment of the Secretary of the Treasury. He might as well have asked the Secretary of the Treasury how a movement of the army should be made by the Secretary of War, as to have consulted this latter officer how a financial operation should be executed, not only not committed to him, but assigned exclusively to another. It was not to the President and all the Secretaries combined that the power was given to change the disposition of the public deposits. If the change were made, it was not *their* reasons for it which were to be reported to Congress. It was to the Secretary of the Treasury alone, exclusive of every other functionary of the Government, that the duty was specifically confined, and the measure was to be judged by Congress upon *his*, and not *their* reasons. Can it be said, then, in the language of the constitution, that the President "took care that the law was faithfully executed," when he took it altogether out of hands to which the law had confided it, and substituted another's will for the will of him who was expressly charged with the execution of the law?

What security have the people against the lawless conduct of any President? Where is the boundary to the tremendous power which he has assumed? Sir, every barrier around the public treasury is broken down and annihilated. From the moment that the President pronounced the words, "This measure is my own; I take upon myself the responsibility of it," every safeguard around the treasury was prostrated, and henceforward it might as well be at the Hermitage. The measure adopted by the President is without precedent. I beg pardon—there is one; but we must go down for it to the commencement of the Christian era. It will be recollected, by those who are conversant with Roman history, that, after Pompey was compelled to retire to Brundisium, Cæsar, who had been anxious to give him battle, returned to Rome, "having reduced Italy," says the venerable biographer, "in sixty days"—[the exact period between the day of the removal of the deposits and that of the commencement of the present session of Congress, without the usual allowance of any days of grace]—in sixty days, without bloodshed." The biographer proceeds:

"Finding the city in a more settled condition than he expected, and many Senators there, he addressed them in a mild and gracious manner, [as the President addressed his late Secretary of the

Treasury,] and desired them to send deputies to Pompey with an offer of honorable terms of peace, &c. As Metellus, the tribune, opposed his taking money out of the public treasury, and cited some laws against it—[such, sir, I suppose, as I have endeavored to cite on this occasion]—Cæsar said, 'Arms and laws do not flourish together. If you are not pleased at what I am about, you have only to withdraw. [Leave the office, Mr. Duane!] War, indeed, will not tolerate much liberty of speech. When I say this, I am renouncing my own right; for you, and all those whom I have found exciting a spirit of faction against me, are at my disposal.' Having said this, he approached the doors of the treasury, and, as the keys were not produced, he sent for workmen to break them open. Metellus again opposed him, and gained credit with some for his firmness; but Cæsar, with an elevated voice, threatened to put him to death if he gave him any further trouble. 'And you know very well, young man,' said he, 'that this is harder for me to say than to do.' Metellus, terrified by the menace, retired; and Cæsar was afterwards easily and readily supplied with every thing necessary for the war."

Mr. President, said Mr. C., the people of the United States are indebted to the President for the boldness of this movement; and, as one among the humblest of them, I profess my obligations to him. He has told the Senate, in his Message refusing an official copy of his cabinet paper, that it has been published for the information of the people. As a part of the people, the Senate, if not in their official character, have a right to its use. In that extraordinary paper he has proclaimed that the measure is *his* own, and that *he* has *taken* upon himself the responsibility of it. In plain English, he has proclaimed an open, palpable, and daring usurpation!

For more than fifteen years, Mr. President, I have been struggling to avoid the present state of things. I thought I perceived, in some proceedings during the conduct of the Seminole war, a spirit of defiance to the constitution and to all law. With what sincerity and truth, with what earnestness and devotion to civil liberty, I have struggled, the Searcher of all human hearts best knows. With what fortune, the bleeding constitution of my country now fatally attests.

I have nevertheless, persevered; and, under every discouragement, during the short time that I expect to remain in the public councils, I will persevere. And if a bountiful Providence would allow an unworthy sinner to approach the throne of grace, I would beseech Him, as the greatest favor He could grant to me here below, to spare me until I live to behold the people rising in their majesty, with a peaceful and constitutional exercise of their power, to expel the Goths from Rome; to rescue the public treasury from pillage; to preserve the Constitution of the United States; to uphold the Union against the danger of the concentration and consolidation of *all* power in the hands of the Executive; and to sustain the liberties of the people of this country against the

imminent perils to which they now stand exposed.

THURSDAY, January 2, 1834.

The Public Deposits.

The Senate resumed the consideration of the report of the Secretary of the Treasury, respecting the removal of the deposits, and the resolutions thereon offered by Mr. CLAY.

Mr. BENTON said he would take leave, before he took up the subject under debate, to vindicate an officer of the Senate who had been unjustly assailed, and who had not the right of speaking for himself. He alluded to the Secretary of the Senate, (Mr. Lowrie,) and to the threat publicly expressed in open debate by a Senator from Kentucky, (Mr. CLAY,) to move to expel him from his office if he should remove any of his clerks for their political opinions. The threat implied a knowledge or belief that the Secretary intended to make such removals; when, in point of fact, no such intention existed. The Secretary now had every clerk in his office who was in it when he came in many years ago. He was living in the utmost harmony with these clerks, and could not but feel himself deeply wounded by a threat, which raised an implication which had no manner of existence. Mr. B. said that an acquaintance of fourteen years with the Secretary enabled him to say that he was incapable of the dishonorable conduct attributed, by implication, to him; that he was a high exemplification of the character of a Christian and a gentleman, and would conscientiously discharge his duties to the Senate and his clerks, without the slightest regard to unmerited threats. Mr. B. also spoke of the animadversion which had been made at the same time, and for the same cause, upon an officer of another body, (the Clerk of the House of Representatives.) Mr. B. was a stranger to him, knew nothing of what he had done, had no opinions to give as to his conduct; but he would say, in vindication of the privileges of the House of Representatives, that the conduct of their clerk belonged to them, not to the Senate, and that it was unparliamentary for the Senate to take notice of it.

Mr. B. then proceeded to the order of the day, the resolutions submitted by a Senator from Kentucky, (Mr. CLAY,) on the removal of the public deposits from the Bank of the United States, and asked for the reading of the resolutions.

The Secretary read them as follows:

"1. *Resolved*, That by dismissing the late Secretary of the Treasury, because he would not, contrary to his sense of his own duty, remove the money of the United States in deposit with the Bank of the United States and its branches, in conformity with the President's opinion; and by appointing his successor to effect such removal, which has been done, the President has assumed the exercise of a power over the Treasury of the United

States not granted to him by the constitution and laws, and dangerous to the liberties of the people.

"2. *Resolved*, That the reasons assigned by the Secretary of the Treasury for the removal of the money of the United States, deposited in the Bank of the United States and its branches, communicated to Congress on the 3d day of December, 1833, are unsatisfactory and insufficient."

Mr. B. said that the first of these resolutions contained impeachable matter, and was in fact, though not in form, a direct impeachment of the President of the United States. He recited the constitutional provision, that the President might be impeached—1st, for treason; 2d, for bribery; 3d, for high crimes; 4th, for misdemeanors; and said that the first resolution charged both a high crime and a misdemeanor upon the President; a high crime, in violating the laws and constitution, to obtain a power over the public treasure, to the danger of the liberties of the people; and a misdemeanor, in dismissing the late Secretary of the Treasury from office. Mr. B. said that the terms of the resolution were sufficiently explicit to define a high crime, within the meaning of the constitution, without having recourse to the arguments and declarations used by the mover in illustration of his meaning; but, if any doubt remained on that head, it would be removed by the whole tenor of the argument, and especially that part of it which compared the President's conduct to that of Cæsar, in seizing the public treasure, to aid him in putting an end to the liberties of his country; and every Senator, in voting upon it, would vote as directly upon the guilt or innocence of the President, as if he was responding to the question of guilty or not guilty, in the concluding scene of a formal impeachment.

We are then, said Mr. B., trying an impeachment! But how? The constitution gives to the House of Representatives the sole power to originate impeachments; yet we originate this impeachment ourselves. The constitution gives the accused a right to be present; but he is not here. It requires the Senate to be sworn as judges; but we are not so sworn. It requires the Chief Justice of the United States to preside when the President is tried; but the Chief Justice is not presiding. It gives the House of Representatives a right to be present, and to manage the prosecution; but neither the House nor its managers are here. It requires the forms of criminal justice to be strictly observed; yet all these forms are neglected and violated. It is a proceeding in which the First Magistrate of the republic is to be tried without being heard, and in which his accusers are to act as his judges!

Mr. B. called upon the Senate to consider well what they did before they proceeded further in the consideration of this resolution. He called upon them to consider what was due to the House of Representatives, whose privilege was invaded, and who had a right to send a message to the Senate, complaining of the pro-

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ceeding, and demanding its abandonment. He conjured them to consider what was due to the President, who was thus to be tried in his absence for a most enormous crime; what was due to the Senate itself, in thus combining the incompatible characters of accusers and judges, and which would itself be judged by Europe and America. He dwelt particularly on the figure which the Senate would make in going on with the consideration of this resolution. It accused the President of violating the constitution, and itself committed twenty violations of the same constitution in making the accusation! It accused him of violating a single law, and itself violated all the laws of criminal justice in prosecuting him for it. It charged him with designs dangerous to the liberties of the citizens, and immediately trampled upon the rights of all citizens, in the person of their Chief Magistrate.

Mr. B. descanted upon the extraordinary organization of the Senate, and drew an argument from it in favor of the reserve and decorum of their proceedings. The Senate were lawgivers, and ought to respect the laws already made; they were the constitutional advisers of the President, and should observe, as nearly as possible, the civil relations which the office of adviser presumes; they might be his judges, and should be the last in the world to stir up an accusation against him, to prejudice his guilt, or to attack his character with defamatory language. Decorum, the becoming ornament of every functionary, should be the distinguishing trait of an American Senator, who combines, in his own office, the united dignities of the executive, the legislative, and the judicial character. In his judicial capacity especially, he should sacrifice to decorum and propriety; and shun, as he would the contagious touch of sin, and pestilence, the slightest approach to the character of prosecutor. He referred to British parliamentary law to show that the Lords could not join in an accusation, because they were to try it; but here the Senate was sole accuser, and had nothing from the House of Representatives to join; but made the accusation out and out, and tried it themselves. He said the accusation was a double one, for a high crime and a misdemeanor, and the latter a more flagrant proceeding than the former; for it assumed to know for what cause the President had dismissed his late Secretary, and undertook to try the President for a thing which was not triable or impeachable.

From the foundation of the Government, it had been settled that the President's right to dismiss his Secretaries resulted from his constitutional obligations to see that the laws were faithfully executed. Many Presidents had dismissed Secretaries, and this was the first time that the Senate had ever undertaken to found an impeachment upon it, or had assumed to know the reasons for which it was done.

Mr. B. said that two other impeachments seemed to be going on at the same time against

two other officers, the Secretary of the Treasury, and the Treasurer; so that the Senate was brimful of criminal business. The Treasurer and the Secretary of the Treasury were both civil officers, and were both liable to impeachment for misdemeanors in office; and great misdemeanors were charged upon them. They were, in fact, upon trial, without the formality of a resolution; and if hereafter impeached by the House of Representatives, the Senate, if they believed what they heard, would be ready to pronounce judgment and remove them from office, without further examination.

Mr. B. then addressed himself to the Vice President, (Mr. VAN BUREN,) upon the novelty of the scene which was going on before him, and the great change which had taken place since he served in the Senate. He commended the peculiar delicacy and decorum of the Vice President himself, who, in six years' service, in high party times, and in a decided opposition, never uttered a word, either in open or secret session, which could have wounded the feelings of a political adversary, if he had been present and heard it. He extolled the decorum of the opposition to President Adams's administration. If there was one brilliant exception, the error was redeemed by classic wit, and the heroic readiness with which a noble heart bared its bosom to the bullets of those who felt aggrieved. Still addressing himself to the Vice President, Mr. B. said that if he should receive some hits in the place where he sat, without the right to reply, he must find consolation in the case of his most illustrious predecessor, the great apostle of American liberty, (Mr. Jefferson,) who often told his friends of the manner in which he had been cut at when presiding over the Senate, and personally annoyed by the inferior—no, young and inconsiderate—members of the federal party.

Mr. B. returned to the point in debate. The President, he repeated, was on trial for a high crime, in seizing the public treasure in violation of the laws and the constitution. Was the charge true? Does the act which he has done deserve the definition which has been put upon it? He had made up his own mind that the public deposits ought to be removed from the Bank of the United States. He communicated that opinion to the Secretary of the Treasury; the Secretary refused to remove them; the President removed him, and appointed a Secretary who gave the order which he thought the occasion required. All this he did in virtue of his constitutional obligation to see the laws faithfully executed; and in obedience to the same sense of duty which would lead him to dismiss a Secretary of War, or of the Navy, who would refuse to give an order for troops to march, or a fleet to sail. True, it is made the duty of the Secretary of the Treasury to direct the removal of the deposits; but the constitution makes it the duty of the President to see that the Secretary performs his duty; and the constitution is

as much above law as the President is above the Secretary.

The President is on trial for a misdemeanor—for dismissing his Secretary without sufficient cause. To this accusation there are ready answers: first, that the President may dismiss his Secretaries without cause; secondly, that the Senate has no cognizance of the case; thirdly, that the Senate cannot assume to know for what cause the Secretary in question was dismissed.

The Secretary of the Treasury is on trial. In order to get at the President, it was found necessary to get at a gentleman who had no voice on this floor. It had been found necessary to assail the Secretary of the Treasury in a manner heretofore unexampled in the history of the Senate. His religion, his politics, his veracity, his understanding, his Missouri restriction vote, had all been arraigned. Mr. B. said he would leave his religion to the Constitution of the United States, Catholic as he was, and although "the Presbyterian might cut off his head the first time he went to mass." His understanding he would leave to himself. The head which could throw the paper which was taken for a stone on this floor; but which was, in fact, a double-headed chain shot fired from a forty-eight pounder, carrying sails, masts, rigging, all before it, was the head that could take care of itself. His veracity would be adjourned to the trial which was to take place for misquoting a letter of Secretary Crawford, and he had no doubt would end as the charge did for suppressing a letter which was printed *in extenso* among our documents, and withholding the name and compensation of an agent, when that name and the fact of no compensation was lying on the table. The Secretary of the Treasury was arraigned for some incidental vote on the Missouri restriction, when he was a member of the Maryland Legislature. Mr. B. did not know what that vote was; but he did know that a certain gentleman, who lately stood in the relation of *sergeant* to another gentleman, in a certain high election, was the leader of the forces which deforced Missouri of her place in the Union for the entire session which he first attended (not served) in the Congress of the United States. His politics could not be severely tried in the time of the alien and sedition law, when he was scarce of age, but were well tried during the late war, when he sided with his country, and received the constant denunciations of that great organ of federalism—the Federal Republican newspaper. For the rest, Mr. B. admitted that the Secretary had voted for the elder Adams to be President of the United States; but denied the right of certain persons to make that an objection to him. Mr. B. dismissed these personal charges for the present, and would adjourn their consideration until his trial came on, for which the Senator from Kentucky, (Mr. CLAY,) stood pledged; and after the trial was over, he had no doubt but that the Secretary of the

Treasury, although a Catholic and a federalist, would be found to maintain his station in the first rank of American gentlemen and American patriots.

Mr. B. took up the serious charges against the Secretary, that of being the mere instrument of the President in removing the deposits, and violating the constitution and laws of the land. How far he was this mere instrument, making up his mind in three days to do what others would not do at all, might be judged by every person who would refer to the opposition papers for the division in the cabinet about the removal of the deposits, and which constantly classed Mr. Taney, then the Attorney-General, on the side of removal. This classification was correct, and notorious, and ought to exempt an honorable man, if any thing could exempt him, from the imputation of being a mere instrument in a great transaction of which he was a prime counsellor. The fact is, he had long since, in his character of legal adviser to the President, advised the removal of these deposits; and when suddenly and unexpectedly called upon to take the office which would make it his duty to act upon his own advice, he accepted it from the single sense of honor and duty, and that he might not seem to desert the President in flinching from the performance of what he had recommended. His personal honor was clean; his personal conduct magnanimous; his official deeds would abide the test of law and truth.

Mr. B. said he would make short work of long accusations, and demolish in three minutes what had been concocting for three months, and delivering for three days in the Senate. He would call the attention of the Senate to certain clauses of law, and certain treasury instructions, which had been left out of view, but which were decisive of the accusation against the Secretary. The first was the clause in the bank charter which invested the Secretary with the power of transferring the public funds from place to place. It was the 15th section of the charter; he would read it. It enacted that whenever required by the Secretary of the Treasury, the bank should give the necessary facilities for transferring the public funds from place to place, within the United States, or territories thereof; and for distributing the same in payment of the public creditors, &c.

Here is authority to the Secretary to transfer the public moneys from place to place, limited only by the bounds of the United States and its territories; and this clause of three lines of law puts to flight all the nonsense about the United States Bank being the treasury, and the Treasurer being the keeper of the public moneys, with which some politicians and newspaper writers have been worrying their brains for the last three months. In virtue of this clause, the Secretary of the Treasury gave certain transfer drafts to the amount of two millions and a quarter; and his legal right to give the draft was just as clear, under this clause of

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the bank charter, as his right to remove the deposits was under another clause of it. The transfer is made by draft; a payment out of the treasury is made upon a warrant; and the difference between a transfer draft and a treasury warrant was a thing necessary to be known by every man who aspired to the illuminating of a nation, or even to the understanding of himself. To make this clear, Mr. B. read extracts from the treasury instructions to banks of deposit in 1829, and from certain letters from the Treasurer of the United States to the cashier of the Bank of the United States in the month of November last, which would justify the issue of the transfer drafts, and quiet the alarms of all those who thought the Treasurer had forfeited the penalty of his bond, and the Secretary had violated the clause of the constitution which forbids money to be drawn from the treasury except upon warrants and under appropriation laws. They would show that the transfer drafts were not warrants; that they drew nothing from the treasury, but made a treasury in every place into which they carried money, within the limits of the United States or its territories, whether there was a branch of the United States Bank there or not.

[Here Mr. B. read the Treasury instructions in relation to the transfer drafts to which he had referred.]

After reading these extracts, Mr. B. took a position, and defied all attacks to dislodge him from it. It was this: That a warrant for the payment of money out of the treasury must, in addition to other requisites, be countersigned by the Comptroller of the Treasury; and the bank is forbidden to pay, and pays at its peril, any warrant not so countersigned. The transfer draft is not so countersigned; the Comptroller does not so countersign it; yet the Bank of the United States paid these drafts, to the amount of two millions and a quarter, without the countersigning of the Comptroller, and, in so doing, admitted that the money was not drawn out of the treasury. This was conclusive, and put the Bank of the United States in the position of contradicting itself, and contradicting all its advocates, in the assumption that the bank is the treasury.

Mr. B. took a further view of what he called the new-fangled conception that the Bank of the United States was the treasury of the United States. It followed, from that doctrine, that where there was no branch of the United States Bank there could be no treasury, and no public moneys. Now, six or eight States of this Union had no branch; the three Territories had none; by consequence, no public money could be sent to those States and Territories. Again: the Bank of the United States was not obliged to establish a branch in a single State, only in the district of Columbia; so that if she withdraw her branches, no public money could be kept except in Philadelphia and Washington. He traced the origin of this assumption, that the

bank was the treasury, to the great measure introduced by President Jackson in the first year of his administration for the protection of the treasury, which was, that the treasury warrant should be filed in the bank which paid the money. Before that time, the Treasurer issued his check on the bank for the money, and it was paid on his single check; since then, three other names must go to the bank with his; to wit: that of the Comptroller, that of the Register, and that of the Secretary of the Treasury; and this formed the true defence and security of the treasury. The Treasurer's bond for \$150,000 was nothing to a man who would check for thirty millions in a year. President Jackson, in the first months of his administration, supplying the deficiencies of all his predecessors, applied the true remedy; Secretary Ingham wrote the circular; he (Mr. B.) had read extracts from it; it did high honor to the new administration. It put the treasury beyond the reach of being injured by any Treasurer. The Treasurer's check could not now draw one dollar without three other names upon it, and the filing of the warrant under the seal of the treasury. The bank is now to see the warrant, and to hold it; and because this warrant was formerly retained by the Treasurer, the bank thinks itself the treasury, because for six years it has had the treasury warrants, instead of the Treasurer's check. Mr. B. here commented upon the strangeness of fortune that President Jackson, who was the only President who had devised a true and impregnable safeguard for the treasury, should be charged for seizing it, and his conduct compared to that of Cæsar in pillaging the gold which Pompey, the Consuls, and the Senate, were silly enough to leave behind in the temple of Jupiter when they fled from Rome.

Mr. B. held that the Secretary of the Treasury was now acquitted; that the Treasurer himself was freed from the penalties of the act of 1789; that both were found to be borne out by law; and he regretted that these officers had not had an opportunity of showing to their accusers and judges the difference between a treasury warrant and a transfer draft, before sentence of condemnation had been passed upon them for mere defect of that knowledge.

Mr. B. proceeded to the second of the resolutions; and, to avoid all questions about order, he took leave to give notice that he should, at the proper time, move an amendment to that resolution, namely, to strike it all out, and to substitute another of a different import.

He considered this second resolution to be illegal, futile, and nugatory. Illegal, because it assumed an appellate jurisdiction over the act of the Secretary of the Treasury, in a case in which no right of appeal had been reserved to the two Houses of Congress in their joint legislative capacity, much less to the Senate alone. The act of the Secretary is definitive. His report to Congress is for their information, not

for their revision. The condemnation of his reasons by either, or both Houses of Congress, cannot restore the deposits, or alter their destination. It will require a law, or a joint resolution, to do that.

The resolution was illegal, in assuming a jurisdiction over a subject of which the Senate had no cognizance. It was a single resolution, and could not legally be communicated to the House of Representatives. It was futile and nugatory, in leading to no action or practical result. It declared a naked proposition, but indicated no consequence resulting from it. It declared the Secretary's reasons to be insufficient and unsatisfactory; but did not say what was to be done with the Secretary, or with the deposits, if the Senate found them to be so. He would still remain Secretary, and the public moneys would still remain removed, whether the resolution was passed or rejected by the Senate. The mover seemed to foresee this objection, and to understand the unparliamentary character of his resolution, when he alluded to the effect which its adoption might have upon the public mind. He (Mr. B.) denied that the Senate was the place to adopt barren resolutions for popular effect. He doubted the propriety of the trial, and the success of the experiment. He remembered a case in which the Senate's condemnation had been the highest passport to public favor; and it might be that a vote on this resolution in favor of the bank might be equally unprofitable to the Senate which gave it, and to the bank which received it.

Mr. B. said, that, having got rid of the outworks which impeded his progress, he would arrive at the main point, and take up the subject which was more immediately before the Senate. For the sake of avoiding questions about order, he would give notice that he should submit, at the proper time, a motion in amendment of the second resolution under discussion, which amendment should be strictly appropriate, and naturally flowing from the course of the argument he should follow. And first, he would take leave to read a paper replete with facts and sentiments applicable to the present attitude of the Bank of the United States and the Government of the United States, though written thirty years ago, and a reference to which he should have frequent occasion to make. It was part of a letter from the great apostle of American liberty (Mr. Jefferson) to Albert Gallatin.

[Mr. KANE, at the request of Mr. B., read the paper.]

This brief extract, Mr. B. said, soared above party politics, and averred the Bank of the United States to be hostile to the principles and to the form of our constitution; an assertion which would be proved to be true in the course of this debate. It recommended the people of the United States, while they were strong, to provide for the safety of their constitution, and to bring the great enemy of their liberty under

subordination to the law, and to do it by depriving him of the public deposits, and thus reducing him to a level with State banks.

He would now take up one of the reasons for removing the deposits, which had become infinitely stronger since, for not restoring them. It was the expansion and contraction of currency. This was the vice of all banks, especially powerful ones, such as the Bank of England and that of the United States. To make fortunes for individuals connected with the bank—to favor gamblers in the stocks—was generally the object of these expansions and contractions; but political ends were sometimes the main object, and the acquisition of fortunes a secondary and subaltern one. Once in a certain number of years, the cycle for these operations came on in England, and was always attended with the making and breaking of many fortunes.

The last operation of the kind in England was performed in 1824-'25, and Mr. Baring, who gave an account of it in the British House of Commons, described the effect to be such, that many millions changed hands, and men who, in a regular train of business, could have wound up with a clear estate of two hundred thousand pounds sterling, were left paupers on the hands of the parish. It was done by pouring out a flood of paper, lending money to everybody, then calling all in, and lending money to nobody but the favorites of the bank. This operation, Mr. B. said, had been three times performed in the United States by the present bank: first, in 1818-'19, from mercenary motives, to gamble in the stocks, and riot on the distresses of the country, and to make fortunes for the directors and their friends; once, in 1831-'32, to effect a political object, when nearly thirty millions of loans were made in a few months, and suddenly called for at the appearance of the bank veto message; but the happy termination of the presidential election stopped the progress of the contraction, and gave the community time to breathe. The removal of the deposits was the next great occasion; and, for the contraction and pressure at that time the bank began to prepare as soon as it was ascertained that the removal would be made. This was early in the last summer. Many circumstances, growing out of the state of the country, and the legislation of Congress, favored the operation. The shortened credits on the revenue bonds was about to take effect; the cash payments on a part of the imports came into play at the same time. A great accumulation of revenue on hand, which made large balances against other banks, in whose notes much of it was paid. All this made of themselves an unusually large demand for money in the commercial cities toward the close of the year. The bank took advantage of these circumstances to make her contraction the more violent upon the community. They prepared for it in secret for several months beforehand. The first great measure was to accumulate bills of exchange in

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the Atlantic cities, payable at a brief date, and all falling due about the same time. For this purpose a resolution was passed applicable to the "five western branches," as they were called, of the most insulting, degrading, and injurious nature. They were forbidden to purchase bills of exchange, except payable in one of the Atlantic cities, and with not more than ninety days to run. This extraordinary fact and extraordinary resolution was communicated to Congress in the report of the Government directors, which had been printed, and was now a part of our documents. It would be found at page 21 of the original report. Mr. B. called upon any member who stood in a relation to know the secrets of the bank to account for this extraordinary resolution, which prevented the western banks from dealing in exchange with one another, or giving any citizen a bill in one branch for his money at the place where another was, or taking from an exporter of western produce, or a drover, a bill payable in New Orleans or Charleston. He wished to hear a reason; to him the object stood revealed—it was to make a great accumulation of these bills in New York, Philadelphia, and Baltimore, towards the close of the year, and thus to increase the demand among the merchants for money in those places, at the very moment that the bank intended to deny them all aid, and was to press them for former debts. The next great act of preparation on the part of the bank was incredible and diabolical—it was to dishonor its distant branch bank notes at that time, and thus render as unavailable as possible the masses of those notes which might be on hand.

Mr. B. regretted that he had to allude to this act without the proofs in hand. They had been called for, and furnished, and were now in the hands of the printer, and would be used by him on a future occasion; and he trusted that a proceeding would be had which would put the bank before a tribunal where the history of this incredible transaction would be brought to light. He alluded to a *scire facias* for the violation of the charter. He said that the notes of the branches had been dishonored at New York, at Baltimore, and at Mobile, about the same time; and that time, in the crisis of this contraction, and with such similarity of circumstances, as to announce that all was done with the connivance, if not with the orders, of the Bank of the United States. He denied that there was any possible assignable reason for dishonoring the distant branch notes at this time. The bank was full of specie, five millions more than it had in 1832, at which time it considered about six millions to be enough, and the president of the bank treated as a mere surplus about five millions, which had been parted with in a few months, the greater part being sold to France and England. Yet they were refused for near a week in New York, till the cashier of the branch could first write, and then fly, in person, to the mother bank, to get leave to receive them, perhaps about fifty

thousand dollars; refused the same way in Baltimore, until a like communication could be had with the mother bank; and refused absolutely, and without explanation, at the bank in Mobile, which was too distant to communicate with the mother bank. Mr. B. said that he stated these facts from a mere sight of the letters which proved them; the proof would be before the Senate soon, and he should endeavor to fix public attention upon a transaction which he might qualify as diabolical and infernal. The result of the whole was, that, when all these circumstances growing out of the state of the country had made an unusual demand for money, when the bank had increased that demand by an extraordinary accumulation of bills of exchange, the contraction was commenced at the rate of several millions a month, including the bills at ninety days, and at the moment their own distant bank notes would have become unavailable in the hands of the holders, if it had not been for the energy of the Secretary of the Treasury, who coerced the payment of the branch notes, by those celebrated transfer drafts, for about two millions and a quarter, the view of which, and the fear of more to follow, compelled the Bank of the United States to relax her policy, permit her branch notes to be received as usual, and thus saved the community from the shock of an unconvertible currency.

Mr. B. had, he said, already demonstrated that the present pressure in the money market was not only unnecessary, but wanton. He would now proceed to prove that the curtailment, so reprehensible in itself, was conducted in a manner which was illegal, and violated the charter of the bank; and, in the next place, he would prove that the curtailment was unequal and partial in its character and operation. He hoped that he fully felt the responsibility which he undertook in making charges against any individuals, or bodies corporate out of this House; and it was from the thorough conviction that what he asserted could be proved, that he was induced to bring forward these charges; and, moreover, it was his intention to give the United States Bank a fair and full opportunity to vindicate itself from the charges, if they were unfounded.

First, the mode of curtailment was illegal. He repeated the words of the charter, stating that the business of the bank could not be transacted by less than seven directors, one of whom should be the president. These being the words, he held that the curtailment of twelve millions in five months was a portion of that business which could be legally transacted only by a board of directors. Now, sir, here is a paper that has come before us as a public document, and may be taken as evidence of the truth of what it contains till it is contradicted. [Mr. B. then read from the memorial of the Government directors a paragraph, and then said:]

This, sir, shows that the curtailment was not

made by the board of directors, nor even by a committee appointed by the board, but by the president. Yes, sir, this enormous pressure, which was to bear upon the whole community, was the work of one single individual. It appears that the removal of the deposits being supposed to be probable, the bank began to take steps to meet it, as early as May or June, by curtailing its business.

The Government directors give us an account, in a narrative of several pages, of the steps taken to get at the reduction to be made. He read, first, an order of the board, in May, directing a committee to report a plan of curtailment; and he remarked, so far, so good. That resolution he held to be a wise one, but that was by the board, and was legal. He read the resolution of the 18th of August, and the whole history of the curtailment, from the report of the Government directors.*

[Here Mr. B. read extracts from the report to show that the moneyed powers of the bank, confided by the charter to a Board of Directors, never to be less than one-half of the whole number, had been delegated to an exchange committee, of which the president of the bank was *ex-officio* one, and that he did the business of the committee himself, making great curtailments on the business community to create distress, and enormous loans to friends and favorites—\$100,000 to one individual, and \$1,100,000 continued to another for two years: and remarked upon them to show the wanton, wicked, and corrupt design of the curtailment and pressure which the bank was making.]

Although the board had the same day refused the paper of good men, merchants in the city, on the 12th day of August, when the curtailment was in full operation, the exchange committee, without the authority of the board, discounted one hundred thousand dollars to an individual, and refused the business paper of mercantile men, though well endorsed. He held that it was an improper partiality, at the very moment when the screws were turning on the merchants of Philadelphia, to make such a loan to an individual. Who was that individual? He figures at the head of a memorial praying for the restoration of the deposits. He was one of those who were busy in getting up public meetings and *fac-simile* memorials in favor of the restoration of the deposits, which were to be repeated, in showers, from every part of the country, like the memorials which, two years ago, we had in favor of the renewal of the charter. Could any thing be a more remarkable evidence of favoritism and partiality, than this screwing of one part of the community with one hand, and, with the other, pouring out favors upon those who were to aid

the bank in getting up excitements, and sending memorials to Congress?

Mr. B. read again:

"Another instance was lately exhibited of the injustice arising from this unlimited and irresponsible power of the committee on exchange. The policy adopted by the board has caused curtailments in the loans to the community to a great extent. These ought at least to be general in their operation. Yet on a loan for a very large sum, secured on stock, being offered for renewal on the 8th of November, all reduction was refused, on the ground that it had been originally made by the committee on exchange, some years before, for an indefinite period, and that the faith of the bank was, therefore, pledged for its continuance. These resolutions, passed three years since, at a time when there was great abundance of money, 'authorized the committee on exchange to loan large sums on approved collateral securities.' Assuming, by virtue of these, a power which we believe the board never intended to confer, they have thus entered, it seems, into contracts which will extend to the termination of the charter, if not beyond it. These contracts, too, so far as we can learn, were not reduced to writing; in fact, the notes themselves were drawn at the usual short periods. It is now at least apparent that these proceedings were at variance with the true policy of the institution, and that they operated unequally on the community, whose interests ought to be impartially consulted."

The name of this individual was not given; but there were circumstances which would enable him (Mr. B.) to identify him. The committee appointed two years ago, to investigate the affairs of the bank, reported that a loan of eleven hundred thousand dollars was made at one time to a broker, who was a relative of the president of the bank; a loan, too, for an indefinite term of years, and at five per cent interest. This, sir, was the loan on which no reduction was to be made; a loan standing at five per cent., when the merchants were driven to the brokers for money at exorbitant premiums to maintain their credit. There was an entire class of debtors to the bank, who were not subjected at all to the curtailment; but they were politicians and friends, and men who were busy in getting up meetings, for the purpose of producing that instantaneous action which was to restore the deposits to the bank, without any examination into the truth of the charges made against it.

I trust, Mr. President, (continued Mr. B.) that I have now made out the case of illegality, partiality, favoritism, and violation of the charter, upon the testimony of a document which would stand before us, and before the American people, as true, until it should be disproved. He would not go further into the instances of favoritism: they were abundant, but time forbade the detail.

He wished now to say a word of the meetings everywhere getting up to influence Congress on the subject of the deposits—to coerce their "instantaneous restoration." He had ob-

* Messrs. Henry D. Gilpin, John D. Sullivan, Peter Wager and Hugh McEldery.

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serv'd that merchants were often engaged in these meetings. Allow me to say, sir, that my historical reading, and my professional studies, have led me to entertain an exalted opinion, and high respect for merchants as a body. He need not go back to the middle ages, when merchants were the founders of States, and raised the free cities of Italy to a level with kingdoms and empires. He would refer to the merchants of England and America, who had a potential voice with statesmen in all matters of finance and commerce. The opinions of such men, whenever expressed, would command from him respect and deference; but to maintain their right to that respect and deference, they must express the opinions of merchants and not of political partisans. Their meetings must be those of merchants, in which they speak and act for themselves, and not the meetings of lawyers and politicians, in which the merchants made no figure. In such meetings the voice coming from merchants was lost; it is their own fault, for merging their own high character in that of faction. The heat and passion of a political meeting was not their theatre, when they wished to enlighten the councils of the nation in matters of finance and commerce; and they must not think it amiss if they shared the fate of their company, and saw their opinions no better treated than those of lawyers and partisan politicians. Mr. B. then descended, with some keenness, upon the *fac-simile* meetings which were getting up all over the United States, and adopting resolutions bearing the impress of the same mint to coerce Congress into "immediate action." He treated the motives of such meetings with considerable levity; made some cuts at lawyers and politicians, who could decide all the points connected with the immense question of removing and restoring the public deposits, without evidence, without facts, without hearing but a small piece of one side of the question, and then put forth their resolves to govern the opinion of the country. He said he should not pay much regard to such sudden verdicts, although they might be communicated by a procession of gowmen who should make a circuit round the city, like the soldiers of Joshua round the walls of Jericho, and deliver their resolves in a blast of rams' horns loud enough to blow down the walls of the Capitol.

The pressure in the money market, Mr. B. said, was a prevailing topic in all these resolutions and memorials sent to Congress; but the framers of those resolutions had no access to the great facts which showed the conduct of the bank in creating that pressure. They knew nothing of the order of restriction upon the western branches; the concerted accumulation of bills of exchange in the Atlantic cities; the extension of new loans to old favorites; the refusal to curtail friends, relations, and politicians; the immense amount of specie—five millions more than the president of the bank deemed a sufficiency two years ago; and above

all, they knew nothing of the secret order, or connivance, from the bank to its principal branches to refuse to receive the notes of their distant sister branches; and that the transfer drafts, against which so much denunciation was directed, were the sole cause of compelling the bank to honor its own branch paper, and were put into the hands of the deposit banks for the sole purpose of being used, upon condition that the institution should refuse its branch paper, or wantonly oppress the community by unnecessary curtailments. Men acting in ignorance of all these things, said Mr. B., must not be astonished if those who do know them should attach but little weight to their elaborate resolutions.

A great issue, said Mr. B., is made up, and between great parties, and greatly affecting the property and liberty of the American people. It is an issue of fact. It is whether the Bank of the United States has unnecessarily curtailed its debts, and oppressed the community, and used its immense power over the money market to promote its own objects at the present time. The issue itself is a great one; the parties to it are eminent; they are the Government directors of the bank, who affirm it; the Secretary of the Treasury, who assigns it in his report on the removal of the deposits; and the President of the United States, who solemnly communicates the fact in his annual Message; these are the parties on one side: on the other stand the majority of the directors of the bank, denying the whole. The Senate has assumed to try this great issue; and how will they try it? By entering the arena, for and against the bank? By pleading like lawyers, and testifying as witnesses, and deciding as judges? Will they become compurgators for the bank? Will they enter the lists as champions, and that in a case in which the laws of chivalry do not admit of a champion? for the bank is neither a woman nor a priest. Will they convert the Senate into a bear garden, give and take contradictions, have a dog fight for the entertainment of the galleries, and acquit the bank by dint of numbers, without examination, and without trial?

Mr. B. held it to be impossible that the Senate of the United States could go on in this way, but that they were bound to proceed in the most solemn manner known to the history of parliamentary proceedings, namely, an examination of the president of the bank, and all other material witnesses, at the bar of the Senate. This, he said, was the course followed in England in similar conjunctures. It was done in the famous case of the South Sea directors; it was the proper course in all great national emergencies. It was the only way to obtain a PUBLIC TRIAL, such as the genius of our constitution delights in. Committees sat in secret; the public did not see how the committees acted. An examination at the bar of the Senate would be an open and public procedure. The people could judge as to the fairness and fulness of the trial; for he held it to be a part of the essence of all trials, in free countries,

that the court should be open, that the people might judge the judges, while they judged the accused. Nothing less gave confidence to the results of trials, or better supported the tribunals in righteous judgments. This case, above all others, demanded such a public trial. The gravity and enormity of the accusation, the dignity of the parties making it, the high trust of the parties denying it, the elevation of the tribunal before which it was made, and the deep interest to their property and liberty, which involved the whole body of the American people in the most anxious suspense for a just and impartial decision. To the directors of the bank themselves, it should be the most desirable mode of proceeding. They should even demand it as a right. It will give them a voice on this floor. It will enable them to confront their accusers. It will give them such a trial as American citizens, free, and proud of their freedom, should aspire to have—open, public, fair; the Senate for judges, the American people for spectators and audience, and ultimate judges over all concerned. At the proper time, therefore, he (Mr. B.) should move to strike out the whole of the second resolution submitted by the Senator from Kentucky, (Mr. CLAY,) which undertook to pronounce judgment without trial, and to insert in place of it a resolution to summon Nicholas Biddle, president of the Bank of the United States, and such other persons as the Senate should direct, to appear at the bar of the Senate at some short and convenient day, to be examined upon oath as to the causes which led to the late large curtailment of the debts of the bank, and the manner of conducting that curtailment.

Mr. B. took up the next great reason assigned by the Secretary for removing the deposits; it was the interference of the bank in the politics and elections of the country. To this most serious charge, the bank, availing itself of a mode of practice known to some courts, but condemned in some others, puts in two pleas of contradictory tenor; that is to say, she pleads double; in one plea denying the truth of the accusation out and out, and in the other admitting it to be true, and justifying it. In a word, she pleaded not guilty, and justification. She should have the benefit of both pleas, and in her own words; for he (Mr. B.) would read them from the little book which the bank itself had prepared and furnished gratis to all the members of Congress, at the commencement of the present session. He had received one, would make his thanks for the favor in due form, and now proceed to use it.

[Here Mr. B. read copious extracts from the report of the Government directors, showing in detail, and to whom, enormous sums were paid for printing electioneering matter for the bank, and attacks and criticisms upon the members of Congress who opposed the recharter of the bank—

among the rest the sum of \$200 paid to a hack writer for a review of one of his (Benton's) speeches against the recharter of the bank, (in which the speech, of course, made a sad figure;) and the further sum of \$1,830 27, to a bank editor for printing "upwards of 50,000 copies of the said review," and packing and distributing the same.]

Mr. B. resumed: The bare reading of this statement shows that the funds of the bank, under the direction of the president of the bank, have been used, and largely used, in supplying the public with electioneering matter. He would make no comments upon that evidence. It needed none. It was a case in which the truth, in this modest, unpretending form of evidence, would do its business upon the understanding without the aid of argument or illustration. He would call the attention of the Senate to the fact, that there was a material portion of the funds used under the resolutions which were wholly unaccounted for, and a knowledge of which the Government directors in vain endeavored to obtain. It seemed to be a secret-service fund, such as the ministers of crowned heads had at their disposal in the European monarchies, and which was to be used for purposes which would not bear the light. A portion of the money so used by the president of the bank—the one-fifth part of it, for the United States owned the one-fifth of the stock—belonged to the people of the United States. It would then result in this: that while the two Houses of Congress could not by law even spend a dollar of the people's money, without specifying the object, and accounting for the expenditure, the same people might have their money taken out of the Bank of the United States by the president of the institution, and applied to objects unknown and unknowable to the people; unknown and unknowable, in fact, to the guardians of their interests, whom they had stationed in the bank to watch their moneys for them.

Must such a bank have the further keeping of the public moneys? Is it not enough that it has so long had them for such incredible purposes? Is it not enough that it now has seven millions of the public money in its stock, which it wields as it pleases? Is it not enough that the whole amount of its notes are receivable in payment of the public dues, and derive a credit and circulation from that circumstance which enables them to traverse the continent, and pass from hand to hand, without calling at the doors of the bank for any part of that ten millions of specie which lies inactive in the vaults of the bank, while business men are screwed to the uttermost for the last dollar, and running from broker to broker to purchase money at any price, or any brief period that it can be obtained? Is not all this enough for such a bank, thus governed, without exacting the use of the future deposits for the two years it has to live?

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Mr. B. said he had now finished the view which he proposed to take of the reasons assigned by the Secretary of the Treasury for the removal of the public deposits. He trusted that the facts and reasons which he had brought to bear upon the question, in addition to the intrinsic weight and palpable force of the Secretary's reasoning, were sufficient to show that the reasons assigned by him were sufficient to justify the act that he had done; at all events, that they ought not to be condemned as insufficient, without a rigorous investigation into their truth. This investigation was what he demanded; he did not want a verdict, either for or against the bank, without a trial. He believed that all those opposed to the bank were in favor of investigation. He considered the House of Representatives, as being the grand inquest of the nation, the appropriate branch of the Legislature for originating accusations, and particularly charged with the moneyed concerns of the people, to be the proper place for investigating the truth of the charges against the institution. He would prefer that the whole matter should be left in that House, which was now fully occupied with the subject; but the control of this subject was in the hands of the friends of the bank, and, if they would prosecute it here, he must demand investigation into the truth of the Secretary's reasons before they were condemned.

Mr. B. concluded with moving to strike out the second resolution, and insert "That Nicholas Biddle, president of the Bank of the United States, and — be summoned to appear at the bar of the Senate on the — day of —, then and there to be examined on oath, touching the causes of the late large curtailment of debts due to the Bank of the United States, and the manner of conducting the said curtailment; also, to be then and there examined touching the application of the moneys of the bank to electioneering and political objects."

MONDAY, January 18.

The Deposit Question.

The Senate resumed the consideration of the report of the Secretary of the Treasury, and the resolutions of Mr. CLAY, on the subject of the removal of the public deposits from the Bank of the United States, as the special order of the day:

Mr. CALHOUN said that the statement of this case might be given in a very few words. The 16th section of the act incorporating the bank provides that, wherever there is a bank or branch of the United States Bank, the public moneys should be deposited therein, unless otherwise ordered by the Secretary of the Treasury; and that, in that case, he should report to Congress, if in session, immediately; and, if not, at the commencement of the next session. The Secretary, acting under the provisions of this section, has ordered the deposits to be

withheld from the bank, and has reported his reasons, in conformity with the provisions of the section. The Senate is now called upon to consider his reasons, in order to determine whether the Secretary is justified or not. I have examined them with care and deliberation, without the slightest bias, as far as I am conscious, personal or political. I have but a slight acquaintance with the Secretary, and that little is not unfavorable to him. I stand wholly disconnected with the two great political parties now contending for ascendancy. My political connections are with that small and denounced party which has voluntarily wholly retired from the party strifes of the day, with a view of saving, if possible, the liberty and the constitution of the country, in this great crisis of our affairs.

Having maturely considered, with these impartial feelings, the reasons of the Secretary, I am constrained to say that he has entirely failed to make out his justification. At the very commencement, he has placed his right to remove the deposits on an assumption resting on a misconception of the case. In the progress of his argument he has entirely abandoned the first, and assumed a new and greatly enlarged ground, utterly inconsistent with the first, and equally untenable; and yet, as broad as his assumptions are, there is an important part of the transaction which he does not attempt to vindicate, and to which he has not even alluded. I shall now (said Mr. C.) proceed, without further remark, to make good these assertions.

The Secretary, at the commencement of his argument, assumes the position that, in the absence of all legal provision, he, as the head of the financial department, had the right, in virtue of his office, to designate the agent and place for the safe keeping of the public deposits. He then contends that the 16th section does not restrict his power, which stands, he says, on the same ground that it did before the passing of the act incorporating the bank. It is unnecessary to inquire into the correctness of the position assumed by the Secretary; but, if it were, it would not be difficult to show that when an agent, with general powers, assumes, in the execution of his agency a power not delegated, the assumption rests on the necessity of the case; and that no power, in such case, can be lawfully exercised which was not necessary to effect the object intended. Nor would it be difficult to show that, in this case, the power assumed by the Secretary would belong, not to him, but to the Treasurer, who, under the act organizing the Treasury Department, is expressly charged with the safe keeping of the public funds, for which he is responsible under bonds in heavy penalties.

But, strongly and directly as these considerations bear on the question of the power of the Secretary, I do not think it necessary to pursue them, for the plain reason that the Secretary has entirely mistaken the case. It is not a case, as he supposes, where there is no legal

provision in relation to the safe keeping of the public funds, but one of precisely the opposite character. The 16th section expressly provides that the deposits shall be made in the bank and its branches; and, of course, it is perfectly clear that all powers which the Secretary has derived from the general and inherent powers of his office, in the absence of such provision, are wholly inapplicable to this case. Nor is it less clear that, if the section had terminated with the provision directing the deposits to be made in the bank, the Secretary would have had no more control over the subject than myself, or any other Senator; and it follows, of course, that he must derive his power, not from any general reasons connected with the nature of his office, but from some express provision contained in the section, or some other part of the act. It has not been attempted to be shown that there is any such provision in any other section or part of the act. The only control, then, which the Secretary can rightfully claim over the deposits, is contained in the provision which directs that the deposits shall be made in the bank, unless otherwise ordered by the Secretary of the Treasury; which brings the whole question, in reference to the deposits, to the extent of the power which Congress intended to confer upon the Secretary, in these few words—"unless otherwise ordered."

In ascertaining the intention of Congress, I lay it down as a rule, which, I suppose, will not be controverted, that all political powers under our free institutions are trust powers, and not rights, liberties, or immunities, belonging personally to the officer. I also lay it down as a rule, not less incontrovertible, that trust powers are necessarily limited (unless there be some express provision to the contrary) to the subject, matter, and object of the trust. This brings us to the question—what is the subject and object of the trust in this case? The whole section relates to deposits—to the safe and faithful keeping of the public funds. With this view they are directed to be made in the bank. With the same view, and in order to increase the security, power was conferred on the Secretary to withhold the deposits; and, with the same view, he is directed to report his reasons for the removal to Congress. All have one common object—the security of the public funds. To this point the whole section converges. The language of Congress, fairly understood, is, we have selected the bank, because we confide in it as a safe and faithful agent, to keep the public money; but, to prevent the abuse of so important a trust, we invest the Secretary with power to remove the deposits, with a view to their increased security. And, lest the Secretary, on his part, should abuse so important a trust, and in order still further to increase that security, we direct, in case of removal, that he shall report his reasons. It is obvious, under this view of the subject, that the Secretary has no right to act in relation to the deposits, but with a view to

their increased security; that he has no right to order them to be withheld from the bank so long as the funds are in safety, and the bank has faithfully performed the duties imposed in relation to them; and not even then, unless the deposits can be placed in safer and more faithful hands. That such was the opinion of the Executive, in the first instance, we have demonstrative proof in the Message of the President to Congress at the close of the last session, which placed the subject of the removal of the deposits exclusively on the question of their safety; and that such was also the opinion of the House of Representatives then, we have equally conclusive proof, from the vote of that body, that the public funds in the bank were safe; which was understood at that time on all sides, by friends and foes, as deciding the question of the removal of the deposits.

The extent of the power intended to be conferred being established, the question now arises—Has the Secretary transcended its limit? It can scarcely be necessary to argue this point. It is not even pretended that the public deposits were in danger, or that the bank had not faithfully performed all the duties imposed on it in relation to them; nor that the Secretary placed the money in safer or in more faithful hands. So far otherwise, there is not a man who hears me who will not admit that the public moneys are now less safe than they were in the Bank of the United States. And I will venture to assert, that not a capitalist can be found who would not ask a considerably higher percentage to insure them in their present, than in the place of deposit designated by law. If these views are correct, and I hold them to be unquestionable, the question is decided. The Secretary has no right to withhold the deposits from the bank. There has been, and can be, but one argument advanced in favor of his right, which has even the appearance of being tenable; that the power to withhold is given in general terms, and without qualification, "unless the Secretary otherwise direct." Those who resort to this argument must assume the position that the letter ought to prevail over the clear and manifest intention of the act. They must regard the power of the Secretary, not as a trust power, limited by the subject and the object of the trust, but as a chartered right, to be used according to his discretion and pleasure. There is a radical defect in our mode of construing political powers, of which this and many other instances afford striking examples; but I will give the Secretary his choice. Either the intention or the letter must prevail. He may select either, but cannot be permitted to take one or the other as may suit his purpose. If he chooses the former, he has transcended his powers, as I have clearly demonstrated. If he selects the latter, he is equally condemned, as he has clearly exercised power not comprehended in the letter of his authority. He has not confined himself simply to withholding the public moneys from

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the Bank of the United States, but he has ordered them to be deposited in other banks, though there is not a word in the section to justify it. I do not intend to argue the question whether he had a right to order the funds withheld from the United States Bank to be placed in the State banks which he has selected; but, I ask, how has he acquired that right? It rests wholly on construction, on the supposed intention of the Legislature, which, when it gives a power, intends to give all the means necessary to render it available. But, clear as this principle of construction is, it is not more clear than that which would limit the right of the Secretary to the question of the safe and faithful keeping of the public funds; and I cannot admit that the Secretary shall be permitted to resort to the letter, or to construction, as may best be calculated to enlarge his power, when the right construction is denied to those who would limit his power by the clear and obvious intention of Congress.

I might here (said Mr. C.) rest the question of the power of the Secretary over the deposits, without adding another word. I have placed it on grounds from which no ingenuity, however great, or subtlety, however refined, can remove it; but such is the magnitude of the case, and such my desire to give the reasons of the Secretary the fullest consideration, that I shall follow him through the remainder of his reasons.

That the Secretary was conscious that the first position which he assumed, and which I have considered, was untenable, we have ample proof in the precipitancy with which he retreated from it. He had scarcely laid it down, when, without illustration or argument, he passed with a rapid transition, and I must say, a transition as obscure as rapid, to another position, wholly inconsistent with the first; and, in assuming which, he expressly repudiates the idea that the safe and faithful keeping of the public funds had any necessary connection with his removal of the deposits; his power to do which he places on the broad and unlimited ground that he had a right to make such disposition of them as the public interest or the convenience of the people might require. I have said that the transition of the Secretary was as obscure as it was rapid; but, obscure as it is, he has said enough to enable us to perceive the process by which he has reached so extraordinary a position; and we may safely affirm, that his arguments are not less extraordinary than the conclusion at which he arrives. His first proposition, which, however, he has not ventured to lay down expressly, is, that Congress has an unlimited control over the deposits, and that it may dispose of them in whatever manner it may please, in order to promote the general welfare and convenience of the people. He next asserts that Congress has parted with this power, under the sixteenth section, which directs the deposits to be made in the Bank of the United States, and then

concludes with affirming that it has invested the Secretary of the Treasury with it, for reasons which he professes to be unable to understand.

It cannot be necessary, before so enlightened a body, that I should undertake to refute an argument so utterly untrue in premises and conclusion; to show that Congress never possessed the power which the Secretary claims for it; that it is a power, from its very nature, incapable of such enlargement, being limited solely to the safe keeping of the public funds; that, if it existed, it would be susceptible of the most dangerous abuses; that Congress might make the wildest and most dangerous association the depository of the public funds; might place them in the hands of the fanatics and the madmen of the North, who are waging war against the domestic institutions of the South, under the plea of promoting the general welfare. But admitting that Congress possessed the power which the Secretary attributes to it, by what process of reasoning can he show that it has parted with this unlimited power, simply by directing the public moneys to be deposited in the Bank of the United States? or, if it has parted with this power, by what extraordinary process has it been transferred to the Secretary of the Treasury, by those few and simple words, "unless he shall otherwise order?" In support of this extraordinary argument, the Secretary has offered not a single illustration, or a single remark bearing the semblance of reason, but one, which I shall now proceed to notice.

He asserts, and asserts truly, that the bank charter is a contract between the Government, or rather the people of the United States, and the bank; and then assumes that it constitutes him a common agent or trustee to superintend the execution of the stipulations contained in that portion of the contract comprehended in the sixteenth section. Let us now, taking these stipulations to be true, ascertain what those stipulations are, the superintendence of the execution of which, as he affirms, are jointly confided by the parties to the Secretary.

The Government stipulated, on its part, that the public money should be deposited in the Bank of the United States—a great and valuable privilege, on which the successful operation of the institution mainly depends. The bank, on its part, stipulated that the funds should be safely kept; that the duties imposed in relation to them should be faithfully discharged; and that for this, with other privileges, it would pay to the Government the sum of \$1,500,000. These are the stipulations, the execution of which, according to the Secretary's assumption, he has been appointed, as joint agent or trustee, to superintend, and from which he would assume the extraordinary power which he claims over the deposits, to dispose of them in such manner as he may think the public interest or the convenience of the people may require.

Is it not obvious that the whole extent of

power conferred upon him, admitting his assumption to be true, is to withhold the deposits in case that the bank should violate its stipulations in relation to them on one side, and, on the other, prevent the Government from withholding the deposits, so long as the bank faithfully performed its part of the contract? This is the full extent of his power, according to his own showing; not a particle more can be added. But there is another aspect in which the position in which the Secretary has placed himself may be viewed. It offers for consideration not only a question of the extent of his power, but a question as to the nature and extent of duty which has been imposed upon him. If the position be such as he has described, there has been confided to him a trust of the most sacred character, accompanied by duties of the most solemn obligation. He stands, by the mutual confidence of the parties, vested with the high judicial power to determine on the infraction or observance of a contract, in which Government and a large and respectable portion of the citizens are deeply interested; and, in the execution of this high power, he is bound, by honor and conscience, so to act as to protect each of the parties in the full enjoyment of their respective portion of benefit in the contract, so long as they faithfully observe it. How has the Secretary performed these solemn duties, which, according to his representation, have been imposed upon him? Has he protected the bank against the aggression of the Government, or the Government against the unfaithful conduct of the bank in relation to the deposits? Or has he, forgetting his sacred obligations, disregarded the interests of both—on one side divesting the bank of the deposits, and, on the other, defeating the Government in the intended security of the public funds, seizing on them as the property of the Executive, to be disposed of at pleasure to favorite and partisan banks?

But I shall relieve the Secretary from this awkward and disreputable position, in which his own arguments have placed him. He is not the mutual trustee, as he has represented, of the Government and the bank; but simply the agent of the former, vested under the contract with power to withhold the deposits, with a view, as has been stated, to their additional security—to their safe keeping; and if he had but for a moment reflected on the fact that he was directed to report his reasons to Congress only, and not also to the bank, for withholding the deposits, he could scarcely have failed to perceive that he was simply the agent of one of the parties, and not, as he supposes, a joint agent of both.

The Secretary having established, as he supposes, his right to dispose of the deposits as in his opinion the general interest and convenience of the people might require, proceeds to claim and exercise power with a boldness commensurate with the extravagance of the right which he has assumed. He commences with a claim

to determine, in his official character, that the Bank of the United States is unconstitutional—a monopoly—baneful to the welfare of the community. Having determined this point, he comes to the conclusion that the charter of the bank ought not to be renewed, and then assumes that it will not be renewed. Having reached this point he then determines that it is his duty to remove the deposits. No one can object that Mr. Taney, as a citizen, in his individual character, should entertain an opinion as to the unconstitutionality of the bank; but that he, acting in his official character, and performing official acts under the charter of the bank, should undertake to determine that the institution was unconstitutional, and that those who granted the charter and bestowed upon him his power to act under it had violated the constitution, is an assumption of power of a nature which I will not undertake to characterize, as I wish not to be personal.

But he is not content with the power simply to determine on the unconstitutionality of the bank. He goes far beyond; he claims to be the organ of the voice of the people. In this high character, he pronounces that the question of the renewal of the bank charter was put in issue at the last presidential election, and that the people had determined that it should not be renewed. I do not (said Mr. C.) intend to enter into argument whether, in point of fact, the renewal of the charter was put in issue at the last election. That point was ably and fully discussed by the honorable Senators from Kentucky (Mr. CLAY) and New Jersey (Mr. SOUTHARD,) who conclusively proved that no such question was involved in the issue; and if it were, the issue comprehended so many others, that it was impossible to conjecture on which the election turned. I look to higher objections. I would inquire by what authority the Secretary of the Treasury constitutes himself the organ of the people of the United States? He has the reputation of being an able lawyer, and can he be ignorant that, so long as the Constitution of the United States exists, the only organs of the people of these States, so far as the action of the General Government is concerned, are the several departments, legislative, executive, and judicial, which, acting within the respective limits assigned by the constitution, have a right to pronounce authoritatively the voice of the people? A claim on the part of the Executive to interpret, as the Secretary has done, the voice of the people, through any other channel, is to shake the foundation of our system. Has the Secretary forgotten that the last step to absolute power is this very assumption which he has claimed for that department? I am thus brought (said Mr. C.) to allude to the extraordinary manifesto read by the President to the cabinet, and which is so intimately connected with the point immediately under consideration. That document, though apparently addressed to the cabinet, was clearly and manifestly intended as an appeal

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to the people of the United States, and opens a new and direct organ of communication between the President and them, unknown to the constitution and to the laws. There are but two channels known to either through which the President can communicate with the people—by messages to the two Houses of Congress, as expressly provided for in the constitution; or by proclamation, setting forth the interpretation which he places upon a law it has become his official duty to execute. Going beyond, is one amongst the alarming signs of the times which portend the overthrow of the constitution, and the approach of despotic power.

The Secretary, having determined that the bank was unconstitutional, that the people had pronounced against the recharter, concludes that Congress had nothing to do with the subject. With a provident foresight, he perceives the difficulty and embarrassment into which the currency of the country would be thrown, on the termination of the bank charter; to prevent which, he proceeds deliberately, with a parental care, to supply a new currency, "equal to, or better," than that which Congress had supplied. With this view, he determines on immediate removal of the deposits; he puts them in certain State institutions, intending to organize them, after the fashion of the Empire State, into a great safety-fund system, but which, unfortunately, undoubtedly, for the projectors, if not for the country, the limited power of the State banks did not permit him to effect. But a substitute was found by associating them in certain articles of agreement, and appointing an inspector general of all this league of banks! and all this without law or appropriation! Is it not amazing that it never occurred to the Secretary that the subject of currency belonged exclusively to Congress, and that to assume to regulate it was a plain usurpation of the powers of that department of the Government?

Having thus assumed the power officially to determine on the constitutionality of the bank; having erected himself into an organ of the people's voice, and settled the question of the regulation of the currency, he next proceeds to assume the judicial powers over the bank. He declares that the bank has transcended its powers, and had therefore forfeited its charter, for which he inflicts on the institution the severe and exemplary punishment of withholding the deposits; and all this in the face of an express provision, investing the court with power touching the infraction of the charter, directing in what manner the trial should be commenced and conducted, and securing expressly to the bank the sacred right of trial by jury, in finding the facts. All this passed for nothing in the eyes of the Secretary, who was too deeply engrossed in providing for the common welfare to regard either Congress, the court, or the constitution.

The Secretary next proceeds to supervise the greatest operations of the bank, pronouncing with authority, that at one time it has dis-

counted too freely and at another too sparingly, without reflecting that all the control which the Government can rightfully exercise over the operations of the institution is through the five directors who represent the Government in this respect. Directors! Mr. C. exclaimed; did I say? [alluding to the present,] No! *spies* is their proper designation!

I cannot (said Mr. C.) proceed with the remarks which I intended on the remainder of the Secretary's reasons; I have not patience to dwell on assumptions of power, so bold, so lawless, and so unconstitutional; they deserve not the name of argument, and I cannot waste time in treating them as such. There are, however, two, which I cannot pass over, not because they are more extraordinary or audacious than the others, but for another quality, which I choose not to designate.

The Secretary alleges that the bank has interfered with the politics of the country. If this be true, it certainly is a most heinous offence. The bank is a great public trust, possessing, for the purpose of discharging the trust, great power and influence, which it could not pervert from the object intended to that of influencing the politics of the country, without being guilty of a great political crime. In making these remarks, I do not intend to give any countenance to the truth of the charge alleged by the Secretary of the Treasury, nor to deny to the officers of the bank the right which belongs to them, in common with every citizen, freely to form political principles, and act on them in their private capacity, without permitting them to influence their official conduct. But it is strange it did not occur to the Secretary, while he was accusing and punishing the bank on the charge of interfering in the politics of the country, that the Government also was a great trust, vested with powers still more extensive, and influence immeasurably greater than that of the bank, given it to enable it to discharge the object for which it was created; and that it has no more right to pervert its power and influence into the means of controlling the politics of the country than the bank itself. Can it be unknown to him that the Fourth Auditor of the Treasury, (an officer in his own department,) the man who has made so prominent a figure in this transaction, was daily and hourly meddling in politics, and that he is one of the principal political managers of the administration? Can he be ignorant that the whole power of the Government has been perverted into a great political machine, with a view of corrupting and controlling the country? Can he be ignorant that the avowed and open policy of the Government is to reward political friends, and punish political enemies; and that, acting on this principle, it has driven from office hundreds of honest and competent officers for opinion's sake only, and filled their places with devoted partisans? Can he be ignorant that the real offence of the bank is not that it has intermeddled in politics, but because it

would not intermeddle on the side of power! There is nothing more dignified than reproof from the lips of innocence, or punishment from the hands of justice; but change the picture—let the guilty reprove, and the criminal punish, and what more odious, more hateful can be presented to the imagination!

I have no doubt that the President removed the former Secretary, and placed the present in his place, expressly with a view to the removal of the deposits. I am equally clear, under all the circumstances of the case, that the President's conduct is wholly indefensible; and, among other objections, I fear he had in view, in the removal, an object eminently dangerous and unconstitutional—to give an advantage to his veto, never intended by the constitution; a power intended as a shield, to protect the executive against the encroachment of the legislative department; to maintain the present state of things against dangerous or hasty innovation, but which I fear is, in this case, intended as a sword to defend the usurpation of the Executive. I say I fear; for although the circumstance of this leads to a just apprehension that such is the intention, I will not permit myself to assert that such is the fact; that so lawless and unconstitutional an object is contemplated by the President, till his act shall compel me to believe to the contrary. But, while I thus severely condemn the conduct of the President in removing the former Secretary and appointing the present, I must say, that in my opinion it is a case of the abuse, and not of the usurpation of power. I cannot doubt that the President has, under the constitution, the right of removal from office: nor can I doubt that the power of removal, wherever it exists, does, from necessity, involve the power of general supervision; nor can I doubt that it might be constitutionally exercised in reference to the deposits. Reverse the present case; suppose the late Secretary, instead of being against, had been in favor of the removal; and that the President, instead of being for, had been against it, deeming the removal not only inexpedient, but under the circumstances, illegal; would any man doubt that, under such circumstances, he had a right to remove his Secretary, if it were the only means of preventing the removal of the deposits? Nay, would it not be his indispensable duty to have removed him? and, had he not, would not he have been universally and justly held responsible?

I have now (said Mr. C.) offered all the remarks I intended in reference to the deposit question; and, on reviewing the whole ground, I must say that the Secretary, in removing the deposits, has clearly transcended his power; that he has violated the contract between the bank and the United States; that, in so doing, he has deeply injured that large and respectable portion of our citizens who have been invited, on the faith of the Government, to invest their property in the institution; while, at the same time, he has deeply injured the public, in its

character of stockholder; and, finally, that he has inflicted a deep wound on the public faith. To this last I attribute the present embarrassment in the currency, which has so injuriously affected all the great interests of the country. The currency of the country is the credit of the country; credit in every shape, public and private; credit, not only in the shape of paper, put that of faith and confidence between man and man; through the agency of which, in all its forms, the great and mighty exchanges of this commercial country, at home and abroad, are effected. To inflict a wound anywhere, particularly on the public faith, is to embarrass all the channels of currency and exchange; and it is to this, and not to the withdrawing the few millions of dollars from circulation, that I attribute the present moneyed embarrassment. Did I believe to the contrary—if I thought that any great and permanent distress would of itself result from winding up in a regular and legal manner the present or any other bank of the United States, I would deem it an evidence of the dangerous power of the institution, and, to that extent, an argument against its existence; but as it is, I regard the present embarrassment not as an argument against the bank, but as an argument against the lawless and wanton exercise of power on the part of the Executive—an embarrassment which is likely to continue long, if the deposits be not restored. The banks which have received them, at the expense of the public faith, and in violation of the law, will never be permitted to enjoy their spoils in quiet. No one, who regards the subject in the light in which I do, can ever give his sanction to any law intended to protect or carry through the present illegal arrangement. On the contrary, all such must feel bound to wage perpetual war against a usurpation of power so flagrant as that which controls the present deposits of the public money. If I stand alone, (said Mr. C.,) I, at least, will continue to maintain the contest, so long as I remain in public life.

TUESDAY, JANUARY 14.

The Deposit Question.

The Chair then announced the special order, being the report of the Secretary of the Treasury on the removal of the deposits.

Mr. SHEPLEY, of Maine, desired to call to the recollection of the Senate the subject-matter under consideration. He understood it to be the removal of the deposits of the moneys of the United States from the Bank of the United States and its branches to other places, and the reasons assigned by the Secretary of the Treasury for their removal, together with the resolutions of the Senator from Kentucky upon that subject.

I had anticipated in this body (said Mr. S.) a calm, deliberate, and respectful consideration, both of the act of removal, and of the reasons offered by the Secretary for the removal. It

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being an act authorized by a law of Congress to be done, and it having been done as authorized by the law, I had supposed the reasons assigned for doing it might have received a fair consideration. But, sir, what have we heard? A fearful array of alarm and danger, as if the removal of a few millions of unexpended moneys in your treasury would destroy a commercial and banking capital of hundreds of millions, annihilate the credit, and involve all the wealth and industry of the country in one common ruin.

But, as if this were not enough, we are alarmed with resolutions alleging assumptions of arbitrary power; with proclamations that our institutions were prostrated, the "constitution gone," and a revolution consummated. And, in addition to all this, we are to be intimidated by names, and epithets, and terms of reproach for the sacrifice of individual character, and honor, and fame. We are taunted with violations of the constitution and of law, and of official trust; and with epithets, charging dishonesty, falsehood, concealment, and the assumption of ungranted and arbitrary power, as if tyranny and monarchy were the designed objects of him whom the people have so recently elected to be the preserver and guardian of their liberties.

Sir, the question returns, were the deposits legally and constitutionally removed?

The proof of the power to remove is found in the charter and law, which provide that the moneys shall be deposited in the bank, "unless the Secretary of the Treasury shall at any time otherwise direct." We have also the statement of the Secretary that he has otherwise directed, in pursuance of that law, and for reasons which he deemed satisfactory—the President's reasons, read to the cabinet the 18th September, giving to the people the reasons which induced him some months before to urge upon the department that step, and those reasons given with plainness, and openness, and candor, sufficient to entitle them to respectful and fair consideration. The result is, that the removal was made by the officer appointed by the law; that he did so in accordance with an act of Congress providing for it, and agreeably to the charter of the bank authorizing it; that the reasons are given as the law provides they should be; and, finally, that all this was done with the approbation of the President, and for the best interests of the country, as they judged; and the reasons of their judgment are open to the people and to Congress to judge of their sufficiency.

But, sir, the Senator who last spoke on this question complained of the President for giving his reasons to the people, on the ground that such a procedure opened a new channel of communication unknown to and unrecognized by the constitution. Why, sir, I did not know that our constitution had closed all communication between the President and the people who elect him. I thought it was but a following out the principles of our constitution to

instruct and enlighten the people as to what was done under it.

But, sir, do not let it be supposed that I concede that there was any thing illegal in the removal of the former Secretary. I shall have occasion to consider that question in the course of my remarks. The plain and principal objection contained in the resolutions before the Senate is, "that the President has assumed the exercise of a power over the treasury of the United States not granted to him by the constitution and laws, and dangerous to the liberties of the people."

This is founded, sir, upon the supposition that there must have been a violation of the law—I mean enacted law. The charge is attempted to be maintained by calling to mind the organization of the Treasury Department. It is said that the treasury is organized upon a different principle from the rest of the departments. In what consists the difference? In name? A difference of name is to alter the power given by the constitution to the Executive! But even this position, based upon a difference of name, is untenable. In the next act passed by Congress, the treasury was called an executive department; and, among other officers of this executive department, was specified the Secretary of the Treasury.

The Senator from New Jersey not only questioned the right of the Secretary to remove the deposits, but his power to place them elsewhere. He says that all the Secretary's power is derived from the act of 1789, and that his power has not been "enlarged or contracted since."

Sir, there has been a different grant of power—a grant which has invested the Secretary with a discretionary power. Strong as this assertion may appear, sir, it is a true one. It has pleased the Legislature to invest the Secretary with a discretionary power. I do not mean to enter into the consideration of the propriety of it. I take the laws as they are; and if there be blame anywhere, let it attach where it belongs, and not to the Secretary, that such discretionary power exists. I have alleged, sir, an alteration in the law relative to the power of the Secretary; now for the issue. I find, in an act making alterations in the Treasury and War Departments, these words:

"An act making alterations in the Treasury and War Departments." Approved May 8, 1792.

Extract from the 6th section: "Sec. 6. *And be it further enacted*, That the Secretary of the Treasury shall superintend the collection of the duties on imports and tonnage as he shall judge best."

This act refers to him, and recognizes him as the head of the department. It gives him, also, a discretionary and superintending power. It tells him that he is to superintend the collection of the revenue, "as he shall judge best." Sir, what is comprehended in the term "superintending" the collection of the revenue? We all know that it is to collect debts—to take possession of moneys; and surely we must keep those moneys when we have taken pos-

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session of them, unless we are particularly directed where to place them. If, then, a person is to collect debts, he is also to keep them, unless directed to the contrary. Again: do not the acts recognizing the Secretary as the head of the department give him also the power to direct others in the performance of their duties? The head of the department stands in the same relation to those around him as the head does to the members of the natural body. And, sir, in this state of the legal power—a discretionary power to collect, and of course to preserve when collected—what becomes of the grounds of the alarm which has been raised that the Secretary has assumed legislative power? Sir, they are all assertions, mere assertions—contradicted by the fact.

The Secretary has been censured because he thought it was singular that such a power should be intrusted to him, and that Congress had not legislated and informed him in what manner and where he was to have the money kept. I do not think it necessary now to inquire why provision was not made in this respect by law. Provision was not made until the United States Bank was selected; prior to that period no place was designated by law; and when the moneys are not deposited in that bank, but are directed by the Secretary not to be deposited there, there is again no place of deposit designated by law. But, sir, it has been alleged that the Treasurer is the only person who is entitled to take charge of the public moneys. He is the proper person, but he is to keep them subject to the control of the head of the department. The latter may order him in what place to keep them. The whole argument against the Secretary has proceeded on the assumption that he has taken the deposits out of the hands of the Treasurer, and kept them himself. He has never, sir, done this. The Secretary has never touched it, never contemplated the actual keeping of the money, but only told the Treasurer where he should keep it; and now there is much alarm of his abuse of power. But there is a distinction: instead of keeping it himself, under his own supervision, he tells the Treasurer the place, and tells him to keep it there. It is not out of the power or control of the Treasurer. It is said the Treasurer is responsible; and he is so, as he always has been, precisely; there is no change, save that the Treasurer is to keep it in a different vault from what he did. But he has no money if the Secretary may take it away, says the Senator from New Jersey. Who, sir, has taken it away, or proposed to take it away? The Secretary does not take it away; he only orders the Treasurer where to keep it in his own possession, that it may be most convenient and useful to the Government. It is not in the Treasurer's power, except as keeper; the Secretary cannot take it out of his keeping; the President cannot. It all resolves itself into this simple proposition, that there is no money taken out of the treasury.

It is by confounding propositions, and so plain as these, by making no distinction between taking money out of the treasury, and directing where it shall be placed in the treasury, that great misconduct is alleged, and ill language used, and imputations of base motives are cast upon the President and the Secretary, as if the money had been scooped out of the treasury, and carried off, instead of being in the Treasurer's keeping. It is only moved from one side of Chestnut street or State street to the other, being still in the treasury.

Sir, the Senator from South Carolina has argued that the Secretary claims the power to order the place of deposit, in the absence of legislation: but there is legislation; and, therefore, to take the money out of the United States Bank was an error, because he asserted there was no legislation, when there was. It is true there was legislation, that while it was in the bank it was to be kept there. But when the power of removal is used as the law provides, there is then an absence of legislation; and if the Senator meant to go further than this, he is in error. He also represents the Treasurer to have the power, and not the Secretary; but the Treasurer has no power to move or remove, but under the direction of the Secretary, as the head. He has power to keep it, but the place where it is to be designated under the direction of the Secretary.

It is alleged by the Senator that the Secretary supposes Congress had the power to dispose of the moneys of the United States as the public interest and convenience might require; and that Congress, not having exercised that power, the Secretary had the power to dispose of it; and that he was in error in both his propositions: for if Congress had such power, the money might be applied to any fanatical scheme. Why, sir, Congress has the power of disposal; but it is controlled in its exercise by the proper objects of legislation; it may go so far, and no further. If all that was meant is, that Congress had no power to spend the money for improper purposes, or upon projects not within the legitimate sphere of legislation, I agree with him; that power is neither in Congress nor the Secretary. And the Secretary has not claimed for Congress or himself any such power. All he has claimed was a right, in the absence of legislation by Congress, to say where the money should be kept by the Treasurer. And here is the fallacy of the whole argument.

The removal of a former Secretary of the Treasury is another supposed assumption of arbitrary power; and his character has been lauded for the purpose of aggravating the alleged arbitrary and oppressive character of the act. Sir, I am of opinion that no laurels are to be gathered by us from the consideration of the fact that he ever was Secretary; and if there be any thing of praise or of glory to be gained by their taking his name and honor into their keeping, I wish them joy of the acquisition.

The right to remove the Secretary is denied

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by the Senator from Kentucky. The power of removal is given in that clause of the constitution giving the President the power to appoint all officers whose appointment is not otherwise provided for in the constitution. This power is not limited to the filling of vacancies, and, of course, carries the power of substitution. This construction was given to the constitution in the act creating the Treasury Department. The power now denied and denounced as tyrannical is expressly given in that law. It is as follows:

"SEC. 7. *And be it further enacted*, That whenever the Secretary shall be removed from office by the President of the United States, or in any other case of vacancy in the office of Secretary, the assistant shall, during the vacancy, have the charge and custody of the records, books, and papers appertaining to the said office."

The practice has been uniform; and this is a new doctrine, for present effect, not for future use. And this is the power, thus given in the constitution, sanctioned by Congress, and practiced upon, that is denounced as oppressive, and as causing a revolution.

The power of the President to superintend and control the subordinate officers is not only denied, but also denounced as unconstitutional, tyrannical, and oppressive. It is said, if that power is in the President, then he is the whole of the Government: the Government then is a simple machine enough; it is the bed of Procrustes, to cut short and lengthen its victims at pleasure. I am for no enlarged construction of the constitution; for no accumulation of power in the Government of the Union; for no augmentation of power in the President; for none in Congress. I resist all augmentation of power by construction. I am for the constitution as it is; I have sworn to support it as it is; not expanded by internal improvement, American system, and a moneyed monopoly, till it sickens with repletion, and sinks in its own loathed rottenness; nor, on the other hand, compressed until it shall be a humble suppliant to the States for the air to breathe, and being denied, shall gasp and die.

FRIDAY, January 17.

Inquiry into the Public Distress.

On motion of Mr. POINDEXTER, the Senate proceeded to consider the following resolution, offered by Mr. CLAY:

Resolved, That the Committee on Finance be directed to inquire into the expediency of affording temporary relief to the community from the present pecuniary embarrassment, by prolonging the payment of revenue bonds as they fall due, the obligors paying interest and giving satisfactory security.

The question being on the motion of Mr. FORTY, to strike out all after the word "*Resolved*," and insert the following:

"That the Committee on Finance inquire into the extent and causes of the alleged distresses of the

community, and into the propriety of legislative interference to relieve them."

[Mr. POINDEXTER spoke earnestly of the general distress of the country, and especially at New Orleans, and the ruinous depression of commerce and agriculture, attributing the whole to the removal of the deposits.]

Mr. BENTON said, that, with respect to the state of things existing in the city of New Orleans, as represented by the Senator from the State of Mississippi, he merely wished to give a brief explanation, derived from information contained in a letter dated December 19th, that he had received from a gentleman in that city. But first he would ask of the Senator from Louisiana, (Mr. WAGGAMAN,) if he knew the handwriting in the letter, and whether the writer was not a gentleman of character and standing.

The letter having been shown to Mr. W.,

Mr. POINDEXTER inquired whether the gentleman was not connected with one of the pet banks.

Mr. BENTON then referred the letter to

Mr. POINDEXTER, who, on inspecting it, said that the writer was President of the Merchants' Bank of New Orleans, one of the banks selected to receive the public deposits.

Mr. BENTON resumed. The letter he said was from a respectable merchant, well acquainted with the commercial transactions of his city. He gives a very satisfactory account of the cause which had produced distress in New Orleans. In the first place, the Branch Bank there received a peremptory order from the mother Bank at Philadelphia, directing its discounts to be reduced one million of dollars. In the next place, the Branch refuses to buy the best endorsed paper at sixty days, or to take any bill whatsoever on the West. Then the Branch buys, without limitation, bills on the North; being in conformity to what he had stated when he last addressed the Senate on the subject. And, lastly, in speaking of the causes of pressure in the money market, the gentleman says: "You are well aware that about the 1st of January and the 1st of March, in consequence of the bills for the purchase of produce being made payable at those times, a great scarcity of money was occasioned among the merchants." Now, sir, said Mr. B., we have the whole of the causes which have produced the distress existing in New Orleans; and to meet this distress there is a peremptory order to the Branch Bank to reduce its discounts—to refuse good paper and to buy largely bills on Philadelphia for the purpose of producing as great a distress among her merchants as possible.

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The Senate then resumed the consideration of Mr. CLAY's resolutions on the removal of the deposits; when

Mr. RIVES, of Virginia, said: The subject we are considering, is admitted, on all hands, to be

one of the highest importance, deriving an especial interest from the distress and embarrassment which are said at the present moment to pervade the community. In regard to the extent of that distress, it may, and probably has been exaggerated, and it is destined, I trust, above all, to be of transitory duration. But that it has existed, and still exists to a very considerable extent, there can be no doubt; and we are now called upon to investigate the causes of the evil, and to apply a suitable and effectual remedy. But, in the performance of this office, let us be careful not to mistake a mere symptom for the disease itself, and by an empirical practice addressed to the momentary palliation or removal of the one, to add to and confirm the violence and danger of the other.

For myself, sir, I believe that the disease is far more deeply seated than the honorable mover of the resolutions now under consideration supposes. It has its origin in the vices of our own legislation, and will require the cautery and the knife for its extirpation. I am not less sensible, I trust, sir, than other gentlemen, to the sufferings of any portion of my fellow-citizens, but I must say that the present crisis, whatever be its severity, comes alleviated by one high consolation. It is calculated to awaken, and I trust it will awaken, all of us to the true nature and dangerous character of that formidable moneyed power which we have built up by our own laws, and which now sits enthroned upon our statute book in the pride of chartered prerogative. Sir, we have heretofore been singularly deaf to the monitory lessons delivered to us by our fathers and predecessors. In vain did the republican statesmen of '91 warn us of the fatal consequences of this "first transgression" of the sacred limits of the constitution—in vain did Mr. Jefferson, in that prophetic passage which was read to us the other day by the Senator from Missouri, (Mr. BEXFORD,) tell us that of all possible institutions "this was the one of most deadly hostility against the principles and form of our constitution," and that if permitted to exist, it would one day reduce the constituted authorities of the nation themselves under vassalage to its will. In vain, sir, did the eloquent voice of the Senator from Kentucky himself, (Mr. CLAY,) on another occasion, warn us that this corporation, though then wielding less than one-third of its present capital and resources, was fraught with the most serious "danger to our liberties"—liberties which the honorable Senator seems now to think can be preserved only by upholding this same corporation against the just animadversions of the public functionaries appointed to supervise it. Sir, all these warnings have been unheeded by us, till the distresses which it has now wantonly inflicted upon the country, with the obvious design of influencing and controlling our proceedings here, must have brought home to all of us, I trust, a deep conviction of the danger and capacities of mischief inherent in this great monopoly.

It will hardly now be contended, I presume, by any gentleman who has taken the trouble to examine the subject, that the present distress is the necessary consequence of the removal of the public deposits from the Bank of the United States. It has been expressly admitted, in a quarter entitled to the highest consideration, not only from the distinguished eminence of the gentleman himself, but from the special relation in which he stands to the bank, [Mr. R. here alluded to the speech of Mr. Binney in the House of Representatives,] that the removal of the deposits *per se* is not a sufficient or justifiable cause for the present distress—that this removal is a thing which might happen, and had happened before in the history of the bank, without producing any distress or inconvenience to the community. Sir, a removal of the public deposits from the bank happens, in effect, whenever an application of the public moneys to the public debt, or to the current expenses of the Government, exhausts the amount which is to the credit of the United States in Bank. If we are to credit the book which the bank itself has laid on our desks, (the report of its committee on the exposition of the President to his Cabinet,) a removal of the deposits, in this way, has occurred at a very recent period, without leading to any pressure on the community. The bank informs us, in that document, that in the month of March last, when the protested bill on the French Government returned upon it, there was, after deducting the advances it had made on that bill, "less than two thousand dollars of the whole funds of the Government in the bank!" And yet it appears from its monthly returns that, notwithstanding this exhaustion of the public deposits, it was at that time actually enlarging, instead of curtailing its discounts.

Sir, if the removal of the deposits has produced the late severe and grinding pressure upon the community, there is a singular disproportion indeed, between the cause and the effect. It appears from statements now before me, that, on the 1st day of August last, when the bank commenced its curtailments, the amount of public deposits in its vaults was \$7,599,841; on the 1st of December, that amount was still \$5,162,259, making a diminution of \$2,437,582 only. By the returns of the bank, it is shown that on the 1st of August its discounts amounted to \$64,160,849. On the 1st of December they were \$54,453,104, making a reduction of discounts, in four months, of near ten millions, to meet a diminution of deposits of less than two and a half millions; and this by an institution which, according to its own showing, had not only not reduced, but actually enlarged its discounts, at a time when the public deposits in its vaults had, by rapid and large diminutions, been brought down to "less than two thousand dollars!"

It is clear, then, that the removal of the deposits alone has not produced the existing distress. But it was the removal of the deposits

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connected (as we are told, from the same authentic quarter already referred to) with the doctrine that the operations of the Government and the business of the community, can henceforward be carried on without the Bank of the United States—it was the intention manifested “of separating the people from the bank, and the bank from the people,” as it is expressed, which produced the convulsion. We are then to presume, that it was to put down this doctrine—to demonstrate the dependence of the Government and nation on this great institution—to show that the people cannot be “separated” from it without ruin and confusion—that all this distress has been visited upon the country.

With like views, doubtless, an exhibit was presented of the annual operations of the bank in the various forms of exchange, domestic and foreign, discounts, circulation of notes, &c.; showing the extent, the alarming extent, to which this institution has mixed itself up with, and acquired a control over, the ordinary business and interests of the country. Sir, if there be gentlemen here who do not see in this exhibit a most fearful revelation of the power and influence of the bank, they have, I confess, much firmer nerves than I can pretend to. It appears from this portentous paper, that the operations of the Bank of the United States, in domestic exchanges alone, under one form or another, during the year 1833, amounted to - - - \$241,717,910
In foreign exchange, - 18,456,787

Total amount of exchange, \$255,174,647

Two hundred and fifty-five millions one hundred and seventy-four thousand and six hundred and forty-seven dollars!

To which must be added the loans and discounts of the bank, which averaged in that year, - - - \$66,871,849

And the circulation of notes of the bank, averaging for the same year, \$30,309,342

Now, sir, I would ask every candid and reflecting man if an institution enjoying such a monopoly as this, of the general commerce and circulation of the country, incorporating itself, as it has been its policy to do, with the ordinary transactions of the community to so fearful an amount, exercising, consequently, a control over the fortunes and interests, the fears and hopes, of so many persons—if such an institution does not wield a power of the most tremendous and alarming character—a power altogether unchecked by the State banks, for the Senate will recollect the significant statement made by the president of the bank to a committee of this House in 1830, that “there are very few banks (State) which might not be destroyed by an exertion of the power of the bank (U. S.)” Sir, sooner or later, evil, dire evil, must have come, of so tremendous a power, unchecked and irresponsible, concentrated in the hands of a great moneyed corporation. It is well that “by an exertion of that power,” so significantly

vaunted, and now so wantonly put in practice, we have been aroused to a sense of our danger, before it is too late to provide for our security.

The true seat of the disease with which the body politic is affected, is here: it is in the existence of this powerful, remorseless, and overshadowing monopoly. What, then, is the remedy? Is it by succumbing to its dictation, to add to its power by restoring the deposits, (the grand panacea proposed to us,) to increase its resources for future annoyance, to enlarge its means of influence, and multiply the chances of perpetuating its existence? Sir, if we have not firmness to resist the panic which the bank has made a pretext of the removal of the deposits for creating, how much less shall we be able to bear the more serious pressure for which it will find a real and operative cause in the expiration of its charter, when, to provide for its returning circulation, and the payment of its stockholders and its depositors, it must call in, instead of ten millions, the whole sixty or seventy millions of debt due to it? Sir, can any one have been so unreflecting as to suppose that we should ever be able to throw off the frightful incubus of this bloated monopoly, without a bitter and painful struggle? Has the experience of 1811, when the charter of the first bank of the United States expired, been entirely forgotten? Then, as now, the same scene of bringing forward the State banks in Philadelphia, as advocates on behalf of the United States Bank, was gotten up, with this honorable distinction in favor of the present times, that then all of those banks came forward at the bidding of the United States Bank, now, some five or six of them have had the firmness to refuse. Then there were not only memorials from boards of trade, and public meetings, as now, but there were formal deputations sent to this place, to lay their complaints before Congress, and a committee of this body was appointed to hear and investigate them. Then, too, there was a pause in the operations of trade; and the products of agriculture sustained a depression, of which the fact then stated in Congress, that flour had fallen in a few days from ten to seven dollars, may serve as a set-off to all that we have heard on this floor, for some days past, concerning the ominous decline in the price of cotton. But, sir, our predecessors had the firmness to stand up against all this terrorism, and to regard the cause of the constitution and the public liberty as dearer to the American people than the transitory state of the money market.

I hope, sir, we shall follow their example. If we yield to the panic with which we are now assailed, and restore the deposits, which the bank has, by its misconduct, justly forfeited, the triumph of this dangerous and unconstitutional institution is complete, and its re-charter virtually decided. Do we not all here feel that these questions are one and the same? Does not the whole course of the arguments we have heard on the *modus operandi* of the removal of the deposits in producing the existing

distress, and in what manner their restoration would tend to relieve it, show that neither the removal nor the restoration are regarded, except as signs expressing the termination or renewal of the bank charter; and that, in truth, it is the bank itself, and not the deposits, which is in issue? Restore the deposits, and what will happen? Another sudden and great expansion of discounts by the bank, bringing more and more of the community within its power, and at the end of two years when its charter expires, if any resistance should then be offered to its renewal, we shall find ourselves in the merciless gripe of another bank contraction, far more agonizing than one we now endure—a crisis to which our courage and principles must certainly prove inadequate, if we have not the firmness to meet the present trial. On the other hand, if the deposits, being withdrawn, are permitted to remain so, the bank will see in that resolution its own fate finally determined—with such an admonition, it will go on gradually to prepare for the winding up of its affairs, (for, happily, it will not have it in its power to inflict further injury on the community, without doing still greater injury to its own interests,) the State Banks at the same time, will be enabled progressively to extend their accommodations, and we shall finally get rid of this tyrannical and unconstitutional monopoly, at the expense of no other suffering than that to which we have already been subjected.

It is in view of this great consummation, Mr. President, the final extinction of this dangerous and unconstitutional moneyed corporation, overshadowing alike the Government and the people, that I, for one, am willing to let the measures which have been taken have their course.

Sir, of all the reforms, social, political, or economical, required by the great interests of the country, that which is most urgently demanded, and which promises in its accomplishment the largest results of utility, security, and public benefit, is, beyond comparison, the restoration of the Government to what it was intended by the framers of the constitution to be, a hard-money Government. We are too much in the habit, Mr. President, of regarding the evils of the paper system as necessary and incurable, and of being content with the delusive palliation of those evils supposed to be derived from the controlling supremacy of a National Bank. Nothing, in my opinion, is more demonstrable than that the great evil of that system, its ruinous fluctuations arising from alternate expansions and contractions of bank issues, making a lottery, in effect, of private fortunes, and converting all perspective contracts and transactions into a species of gambling—nothing can be more certain than that these ruinous fluctuations (and we have a striking proof of it in the present distresses of the country) are increased, instead of being diminished, by the existence of an institution of such absolute ascendancy, that when it expands the State Banks

expand with it; when it contracts, those banks are forced in self-defence to contract also. Whatever influence such an institution may be supposed to exert, in preserving the soundness of the currency, that object would be much more effectually promoted by a return, as far as practicable, to a metallic circulation. The first step towards that return is to let the Bank of the United States go down. Its notes being withdrawn, the convenience of travelling alone would immediately create a demand for gold coins, as a substitute, and enforce the necessity of correcting that under-valuation of them at the mint, which is said to have contributed to their disappearance. In concurrence with this, let measures be taken, as it is believed effectual measures may be taken, to discourage and suppress the circulation of bank notes under a certain denomination, (ten or twenty dollars,) of which the effect would be, to produce another accession to the metallic circulating medium. The ordinary channels of circulation being thus supplied with gold and silver, the Government would be prepared, without hardship to the public creditor, to require payment of its dues in specie, and thus realize a reform, than which none could be more deeply interesting, in every aspect, to the safety and prosperity of the country.

Sir, here is an object worthy to engage the most anxious labors of the patriot and statesman, and I feel persuaded that, with a tithe of the effort and talent daily expended in the ephemeral contests of party, he should see it happily accomplished. I conjure gentlemen, then, with ability so eminently fitted for this great work, to leave the Bank of the United States to its fate—a fate already pronounced by the voice of the nation, and called for by the highest considerations connected with the safety of our free institutions—and bring forward their powerful aid in an effort to restore the Government to its true constitutional character and destination—that of a simple, solid, hard-money Government.

But I shall doubtless be asked, Mr. President, if, in this instance, the public faith has been broken, and the rights of the bank violated, will I not repair the breach, and redress the wrong? Sir, if such were the case, I would, but in my humble judgment, and I hope to be able to show it, the public faith has sustained no violation—the bank no wrong; and this brings us to the consideration of the rights of the bank, as secured by its charter. Gentlemen have argued as if the bank, by the bonus which it paid, of a million and a half of dollars, had purchased a right to the deposits of the public money. But nothing is more obvious, from the face of the bank charter itself, and especially from the report of the Secretary of the Treasury, (Mr. Dallas,) which transmitted and explained it, than that the bonus was the consideration, not for the public deposits, but for the charter grant—for the act of incorporation, conferring on the subscribers to that bank the

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faculties and privileges of a body politic and corporate, empowered, as such, to carry on the trade of banking with a capital of thirty-five millions of dollars, to hold property to the amount of fifty-five millions, to make by-laws for the Government of the corporation, to establish offices of discounts and deposit in any of the States or Territories of the Union, and for the express stipulation, pledging the faith of the United States that no other bank should be established by Congress during the continuance of the said corporation.

These evidently were the "exclusive privileges and benefits conferred by the act" of incorporation, "in consideration of which" the bonus was to be paid,—and were they not of value enough, Mr. President, of a character sufficiently important to merit and justify the price to be paid for them? Why, sir, among them is a great sovereign power granted to this corporation, that of establishing subordinate banks within the jurisdiction of the States, independent of the consent, and exempt from the legislation of the States in which they may be established—a power which Mr. Madison declared, in the debates on the creation of the first bank in 1791, "ought not to be delegated to any set of men under the sun." The deposit of the public moneys in the Bank of the United States can with no propriety be considered "an exclusive privilege or benefit conferred on the Bank of the United States by the act of incorporation;" inasmuch as that act expressly reserves to the Government, by its financial officer, the power to deposit the public moneys in other banks, if it should think proper to do so.

Let, sir, the document I have already referred to, the report of the Secretary of the Treasury transmitting to Congress the plan of the bank, be examined, and nothing can appear clearer than that the true and fundamental contract between the Government and the bank is that which I have stated—the grant of the important corporate faculties and privileges already mentioned, on the one side, and the payment of the bonus on the other. The provisions in regard to the deposit of the public moneys by the Government, and the transfer and distribution of them by the bank, were treated as being of an "incidental kind," and regarded in the light of "mutual equivalents," (the one a compensation for the other,) growing out of "the fiscal connection between the bank and the public treasury." So long as the public moneys should be deposited in the Bank of the United States, the bank would be bound to transfer and distribute them as the exigencies of the Government should require. When they ceased to be deposited there, the bank would be relieved from that obligation. The deposits being reserved under the discretionary control of the Government, which could continue or withhold them at its pleasure, could not rationally form a part of the consideration, for which a fixed and unchangeable equivalent was to be paid in the form of a bonus.

From this general review of the conduct of the bank in its various relations to the public, I hope I have shown, Mr. President, that it, at least, has no just cause to complain of the animadversion with which it has been visited in the removal of the public deposits. I trust also, sir, that I have shown that in the act of the Secretary of the Treasury, ordering that removal, there was no want of legal authority. Here, then, believing as I do, that our highest duties to the constitution and to the public liberties forbid our doing any thing, not required by law and justice, which would tend to strengthen this dangerous and unconstitutional institution, (and such, I think, would be the inevitable tendency of a restoration of the deposits,) I might have been content to terminate my view of the subject. But grave questions of constitutional law have been made in regard to the rights and powers of the Chief Executive office on this occasion, which ought not to be shunned. Questions of this sort, whenever they arise, should be firmly met, and fully and fairly canvassed, as nothing can be of deeper interest to the people and to the States of this confederacy, than the ascertainment of the true principles of that constitution which they have "ordained and established."

I will now, Mr. President, examine the several positions taken by the Senator from Kentucky, (Mr. CLAY,) in relation to this question of constitutional power. The honorable Senator affirms that, by what has been done with regard to the removal of the public deposits from the Bank of the United States, the Executive has usurped the power over the Treasury and the public purse, which the constitution has exclusively vested in the Legislative Department. In enforcing this position, sir, he has presented to us, with his characteristic eloquence, the alarming consequences of a union of the power of the sword and of the purse in the same hands. As no topic is better calculated to arouse the jealousies of a free people than this, it becomes us to analyze and examine it, and to see how far it has any just application to the subject under consideration. Sir, it is a great maxim of constitutional liberty, in that country from which we have derived so many of our institutions, that the powers of the sword and the purse should be kept separate and distinct; and as the maxim comes to us from thence, we cannot better ascertain its scope and meaning, than by seeing how it is understood and practised there. In England, the power of the sword is in the hands of the King. He can declare war, make peace, raise armies, equip fleets. But the supplies for the prosecution of the war, for the support of the army and navy, can be obtained only by a vote of Parliament; and thus the power of the purse is lodged in the hands of the representatives of the people. This is considered the great security of English liberty—that the King who holds the power of the sword, has no power over the public purse. But what is this

power of the purse, which is thus jealously and wisely withheld from the Executive Magistrate? Why, sir, evidently the power of drawing money from the pockets of the people, and of designating the objects to which it shall be applied.

The power of the purse, then, of which we have heard so much in the course of this discussion, and so much, I must be permitted to say, that is vague and indeterminate, is, in the true constitutional sense, the power of taxation and appropriation—the power of raising money by taxes, of determining in what manner and to what amount they shall be raised, and to what objects they shall be applied. This great power, here, as in England, is exclusively vested, as it ought to be, in the immediate representatives of the people. The constitution expressly declares that “Congress shall have power to lay and collect taxes, duties, imposts, &c., and that “no money shall be drawn from the Treasury but in consequence of appropriations made by law.” These are the provisions of the constitution which confer and define the power of the purse. But while the general powers to raise and appropriate money for the public service were vested in Congress, it certainly never could have been intended that Congress itself was to collect, to receive, to keep, to disburse, the public money. These are subordinate ministerial functions, which must, of necessity, be performed by Executive agents, under the general provision of the law. In England, sir, where, as we have seen, the power of the purse is fully and effectually vested in Parliament, it is, nevertheless, the Exchequer and the Treasury, Executive departments, which manage the collection and expenditure of the public revenue, under authority of law. So with us, sir, the ministerial functions of collecting, receiving, keeping, disbursing the public money, have been invariably devolved on the Executive officers of the Government.

It is true, sir, that Congress, in the exercise of its legislative powers, may and ought to, (as far as is consistent with the public interests, which might in certain cases require a discretionary power to be lodged with the Executive,) prescribe a place of deposit for the public moneys, when collected; but if no such prescription be made by the legislative authority, it devolves necessarily on the Executive department charged with the collection and safe-keeping of the public moneys, to determine where they shall be deposited and kept. Such was the case, in the most unlimited sense, previous to the passage of an act in 1800, which required that, at certain places, the bonds taken for the payment of duties should be deposited in the Bank of the United States, or its branches, for collection. Before that time, the Treasury Department caused the public moneys to be deposited wherever it thought proper—in some instances in the hands of public officers; in others, in the State Banks, and in others again, in the Bank of the United States and its

branches. This it did at its perfect discretion, without its ever being imagined that, in so doing, it encroached on that power of the purse, which the constitution had lodged in other hands.

When the present Bank of the United States was established, its charter contained a provision that the deposits of the public money should be made in it or its branches, unless the Secretary should, at any time, otherwise order and direct. If the Secretary of the Treasury, in the exercise of the discretion thus reserved to him by law, should order the public moneys to be deposited elsewhere, he certainly usurps no legislative power over the public purse. He merely executes a subsidiary trust in regard to the place of keeping the public moneys, which has been expressly confided to him by the legislative department itself.

But, sir, it has been argued that by the act incorporating the Bank of the United States, with the provision above mentioned, the bank was, in effect, constituted the Treasury of the United States, and that, in removing the public deposits from the bank, money had been drawn from the Treasury, in violation of the constitutional declaration on that subject. If the act incorporating the bank could, by possibility, have had the effect attributed to it, of converting the bank, by some strange metamorphosis, into the national Treasury, still it became the Treasury *sub modo* only—that is, only so long as the Secretary might not order the public moneys to be deposited elsewhere. When the Secretary should order the public moneys to be deposited elsewhere, then, in virtue of the very provision referred to, the bank ceased to be the Treasury. But there is a total want of logical precision in this notion of the Treasury. The error is in annexing an idea of fixed locality to it; whereas, in the true constitutional and financial sense, it is not a place, but a state or condition. It is the condition of moneys belonging to the Government, and being in the custody or legal possession of the officer charged with their safe-keeping. Wherever moneys are placed to the credit, and subjected to the control, of the public Treasurer, there they are, both in legal and in common intendment, in the public Treasury.

In a report of the Secretary of the Treasury, made on the 9th of January, 1811, I find the term used in such a way as to show conclusively the sense in which it is habitually employed in the finances of the Government. A resolution had been adopted by the House of Representatives, on the 19th December, 1810, requiring the Secretary of the Treasury, among other things, to report “what will be the probable amount of the deposits in favor of the United States in any of the said banks” (United States and State,) “or their branches, and which of them, on the 1st of March, 1811.” The Secretary of the Treasury, in answer to this call, reported: “It is probable the amount of specie in the Treasury will, on the 1st day

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of March next, exceed \$2,500,000, and that the proportion deposited in the banks, other than that of the United States and its branches, will not materially vary from what it is at present." Here we see, Mr. President, that the Secretary of the Treasury speaks of the whole of this sum, though distributed in various banks, both of the United States and the States, as being in the Treasury, because, whether in one or the other, it was equally in the legal custody and under the control of the Treasurer.

A similar illustration is furnished by the very law establishing the Treasury Department. The 4th section of that act declares that "all receipts for moneys received by him" (the Treasurer) "shall be endorsed upon warrants signed by the Secretary of the Treasury, without which warrant so signed no acknowledgment for money received into the public Treasury shall be valid." Here, it will be perceived that the receipt given by the Treasurer (endorsed on the warrant signed by the Secretary of the Treasury) is treated as synonymous with receipt into the public Treasury. When the Treasurer thus executes his receipt, the money, wherever it may be, stands to his credit and is subject to his control, and is consequently in the public Treasury. It continues in the public Treasury so long as it stands in his name, though, in the mean time, it may be repeatedly shifted from place to place; and it goes out of the Treasury only when it passes from him to some creditor of the Government, to whom it is paid under a warrant of disbursement. Another illustration of the same kind is furnished by that clause of the act which makes it the duty of the Treasurer, on the third day of every session of Congress, to "lay before them a true and perfect account of the state of the Treasury;" by which, certainly, it is not meant that he should lay before Congress an account of the state of any bank or other place where the public moneys may be deposited, but "the amount of the public moneys, wheresoever deposited."

In regard to the other portion of the honorable Senator's (Mr. CLAY) observations, touching the abuses which the President might commit, in saying first to one, and then to another Secretary, that if you will not do so and so, I will turn you out of office, I can only say that the argument comes just forty-five years too late. In the very first Congress which met under the constitution, it was decided, upon the fullest consideration, that the President, according to the true principles of that instrument, possessed the power of removal from office, and that power was expressly recognized in the acts constituting the Executive Departments. The very argument which the honorable Senator now uses, and every other which he has so earnestly pressed on this branch of the subject derived from possible abuses, was then repeatedly and strongly urged against the power of removal in the President. But they were all overruled, on the ground that the constitution,

in "vesting the Executive power in the President," had made him responsible for the conduct of the Executive officers employed under him, whom, therefore, he ought to have the power to control, and that this responsibility of the President, thus established, was, in fact, to use the language of Mr. Madison, the highest security "for liberty and the public good."

But, sir, this matter deserves a fuller examination, and brings under review some opinions expressed by the honorable Senator a few days ago, which, as they involve the fundamental theory of the constitution in regard to the Executive branch of the Government, I will proceed to consider more in detail. The honorable Senator took especial exception to the principle asserted by the President in the paper read by him to his cabinet—"that the constitution has devolved upon him the duty of superintending the operation of the Executive Departments." He contended that the constitution had given him no such power—that by law those departments may, and in certain cases have been, placed under the superintendence and direction of the President—that so far, and no farther, he has, by law, the superintendence of their operations; but that the constitution has devolved on the President no right of superintendence over the Executive Departments.

Now, sir, on this assertion, I must respectfully join issue with the honorable Senator; and I call to witness the fathers of the constitution, and those who have had the largest and most enlightened experience in the administration of its highest trusts. The fundamental theory of the constitution, in regard to the Executive power, is, 1st, its unity, 2dly, its responsibility; to secure which last, in an undivided and the most efficient manner, was the great argument in favor of the first. In Governments of the monarchical kind, the Executive head is exempt from all responsibility. But in our republican constitution, the chief Executive Magistrate is under a triple responsibility, through the medium of election, of impeachment, and of prosecution in the common course of law. He is not only responsible for his personal acts, but the "Executive power being vested in him," he is responsible for the whole Executive Department; and this responsibility of the President was considered the great security for the proper and safe administration of that Department. Mr. Madison, in the debates which took place in '89 on the President's power of removal, said, "It is evidently the intention of the constitution that the First Magistrate should be responsible for the Executive Department." Again, in the course of the same debate, he said, "The principle of unity and responsibility in the Executive Department, is intended for the security of liberty and the public good."

The President being thus responsible by the constitution for the conduct of the Executive officers, he has, from the constitution, also,

as a necessary consequence, the right to inspect, superintend, and control their proceedings; and this right of superintendence is expressly and repeatedly recognized, on constitutional grounds, in the great debate in the first Congress, to which I have already referred. I will give a few only, of many similar extracts, in which it will be seen that this right of superintendence, as a constitutional right, is distinctly and unequivocally asserted. Mr. Madison said: "Is there no danger that an officer, when he is appointed by the concurrence of the Senate, and has friends in that body, may choose to risk his establishment on the favor of that branch rather than rest it upon the discharge of his duties to the satisfaction of the Executive branch, which is constitutionally authorized to inspect and control his conduct?"

Mr. Lawrence: "In the constitution, the heads of Departments are considered as the mere assistants of the President in the performance of his executive duties. He has the superintendence, the control, and the inspection of their conduct," &c., &c.

Mr. Ames: "The executive powers are delegated" (of course, by the constitution) "to the President, with a view to have a responsible officer to superintend, control, inspect, and check the officers necessarily employed in administering the law."

We see, then, Mr. President, that throughout these debates, which, as a contemporaneous exposition, as well as from the distinguished ability of the men who participated in them, must be regarded as an authority of the highest order, that the right of the President to superintend the Executive Departments, was treated as a right flowing from the fountain of the constitution itself, and existing anterior to, and independent of legislative provision. Sir, that this is the true character of the right, nothing could more strikingly show than the form in which the question of the Presidential power of removal was finally settled by the Congress, whose debates are here referred to. In the original shape of the bills for the organization of the Executive Departments, it was provided that such and such Secretaries should be appointed, "to be removable by the President." It was suggested, however, that a clause of this sort might be considered as implying that the power of removal was granted by the law. To preclude such an influence, it was proposed to substitute a mere incidental recognition of the power, serving to show that the power was considered a pre-existing one, derived from the constitution and not from the law; and this was done in the section providing for cases of vacancy in the head of the Department, by a simple declaration, that "whenever the principal officer shall be removed from office by the President of the United States, or in any other case of vacancy," the chief clerk shall, during such vacancy, have the charge and custody of the records, &c., &c., of the department. The

original clause was stricken out, and this incidental recognition of the power substituted, as will be seen by reference to the acts constituting the Executive Departments; and this was done expressly on the ground, which the language sufficiently imports, that the power of removal from office by the President, was a pre-existing power, flowing from the constitution, and not derived from the law. The power of superintendence, involved in that of removal, stands, as we have seen, on the same ground.

Sir, I beg leave now to call the attention of the Senate to an authority which, as that of one of the earliest and most uncompromising foes of tyranny, and the great champion of popular rights, as he is the acknowledged founder of the democratic party in this country, cannot fail, I trust, to command the respect of those who, like the honorable Senator from Kentucky, profess to be fighting the battles of liberty on this floor. I allude, of course, to Mr. Jefferson. While no one more steadily opposed the undue accumulation of power in the hands of the chief Executive Magistrate, it will be seen that no one more unequivocally maintained the constitutional right of the President to superintend and control the action of the Executive Departments. I will read, sir, an extract from a letter addressed by him to M. de Tracy, the author of an able and enlightened commentary on the great work of Montesquieu. He is expressing his difference of opinion from M. de Tracy on the question of a plural or single Executive, declares a decided preference for the latter, and after appealing to the history of the French Directory to show the evils and disadvantages of the former, he proceeds to notice the organization of our single Executive thus:

"The failure of the French Directory, and from the same cause, seems to have authorized a belief that the form of a plurality, however promising in theory, is impracticable, with men constituted with the ordinary passions: while the tranquil and steady tenor of our single Executive, during a course of twenty-two years of the most tempestuous times the history of the world has ever presented, gives a rational hope that this important problem is at length solved. Aided by the counsels of a cabinet of heads of Departments, originally four, but now five, with whom the President consults, either singly or altogether, he has the benefit of their wisdom and information, brings their views to one centre, and produces an unity of action and direction in all the branches of the Government. The excellence of this construction of the Executive power has already manifested itself here under very opposite circumstances. During the administration of our first President, his Cabinet of four members was equally divided, by as marked an opposition of principle as monarchism and republicanism could bring into conflict. Had that Cabinet been a Directory, like positive and negative quantities in algebra, the opposing wills would have balanced each other, and produced a state of absolute inaction. But the President heard with calmness the opinions and reasons of each, decided the course to be pursued, and kept

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the Government steadily in it, unaffected by the agitation. The public knew well the dissensions in the Cabinet, but never had an uneasy thought on their account; because they knew also they had a regulating power, which would keep the machine in a steady movement."

This passage, sir, requires no comment. It is evident that Mr. Jefferson considered the power of the President to control and "decide the course to be pursued by each" of the Departments, as the fundamental principle of our Executive organization—that it only can secure the necessary "unity of action and direction in all the branches" of the Executive administration—and that, in short, it is the "regulating power which keeps the whole machine in steady movement." In a subsequent part of the same letter, he speaks of "this power of decision in the President, as that which alike excludes internal dissensions, and repels external intrigues."

[Mr. CLAY here inquired of Mr. RIVES, if this letter was written before or after Mr. Jefferson was President.]

Mr. RIVES answered that it was written in January, 1811, in the philosophical retirement of Monticello, when he had withdrawn from all the disturbing scenes of public life, and, as a patriot and sage, employed his leisure in meditating the lessons of his long experience, and recording them for the instruction of posterity. But, lest the honorable Senator may suppose (as his question seems to imply) that the possession of power had given an undue bias to the mind of Mr. Jefferson, (than whom there never lived a man more thoroughly imbued with an innate love of liberty,) he shall speak for himself. In the letter from which I have already quoted, he uses the following language:

"I am not conscious that my participations in Executive authority have produced any bias in favor of a single Executive; because the parts I have acted have been in the subordinate, as well as superior stations, and because, if I know myself, what I have felt and what I have wished, I know I have never been so well pleased as when I could shift power from my own on the shoulders of others; nor have I ever been able to conceive how any rational being could propose happiness to himself from the exercise of power over others."

In the letter from which I have read, we have seen Mr. Jefferson's theory of the constitution with regard to the Executive, and the practice of Washington. Let us now see, sir, the principles upon which he conducted his own administration of this high office. In a few months after his accession to the Presidency, in November 1801, he addressed a circular to the Heads of Departments, the members of his Cabinet, for the purpose of laying down the rules which were to govern the official relations between him and those Departments. He begins with repeating what was the practice, in his respect, of General Washington's administration, of which he had himself been a member—that the several Heads of

Departments regularly transmitted to the President the communications addressed to them in relation to the concerns of their respective offices, with the answers proposed by them to be made, and received from him, in return, the signification of his approbation, or else the suggestion of such alterations as he might think necessary—and then proceeds: "By this means, he was always in accurate possession of all facts and proceedings in every part of the Union, and to whatsoever Department they related; he formed a central point for the different branches, preserved an unity" (this despotic unity again, sir!) "of object and action among them; exercised that participation in the gestion of affairs which his office made incumbent on him; and met himself the due responsibility," (General Washington, and Mr. Jefferson too, it seems, were so reckless and daring as to meet the responsibility of their offices,) "for whatever was done. During Mr. Adams's administration, his long and habitual absences from the Seat of Government rendered this kind of communication impracticable, removed him from any share in the transaction of affairs, and parcelled out the Government, in fact, among four independent heads, drawing sometimes in opposite directions." He then expressed his intention to adhere to the system, in this respect, of Washington, and adds—"my sole motives are those before expressed, as governing the first administration in chalking out the rules of their proceedings; adding to them only a sense of the obligation imposed on me by the public will, to meet personally the duties to which they have appointed me."

Here, sir, we have the interpretation of Washington and Jefferson, in the most authentic of all forms, (their own practice,) of the duties and powers of the Presidential office, creating in the Chief Magistrate himself a responsibility "for whatever is done" in any of the Executive Departments, and giving him, by consequence, a power to superintend, control, and shape the action of those Departments. To these high constitutional models, realizing the well-ordered unity and responsibility of a single Executive, the present Executive Chief Magistrate has sought to conform his administration, rather than by indolence, neglect, or shrinking from responsibility, to parcel out the Government among five or six independent Heads of Departments, thus converting it into a discordant and practically irresponsible directory.

I will now, Mr. President, advert to an argument of the honorable Senator from Kentucky, which, I confess, struck me with considerable surprise. In order to sustain his position that the constitution had not given the President a power of superintendence and control over the Executive Departments, he contended that, in certain cases, the heads of those Departments were responsible to, and compellable to act by the courts of justice; and, in support of this principle, he relied on the decision of the Supreme

Court in the case of *Marbury and Madison*, an extract of which he read to the Senate. I was the more surprised, sir, at the doctrine and the authority coming from the honorable Senator from Kentucky, because he professes an adhesion to the creed of the republican party of that day; and yet it may be confidently affirmed that there never was a decision of that tribunal which gave more dissatisfaction to the republican party, than that did, and especially to the great chief and leader of the party, who has recorded, in various parts of his writings, the most earnest and energetic condemnation of it. With all the deference I entertain for that exalted tribunal, I must say that the doctrines of *Marbury and Madison* appear to me utterly unsustainable, and such, I believe, would be the judgment of all parties at the present day. The Senate, sir, doubtless recollect the circumstances of the case. Mr. Adams, on the eve of quitting the Presidency, had appointed, with the concurrence of the Senate, numerous officers, and, among others, certain justices of the peace for this district. Their commissions had been signed by him, and the seal of State, perhaps, affixed to them; but they had not been delivered to the parties, when Mr. Jefferson came into office. Mr. Jefferson finding them still in the Department of State when he succeeded to the Presidency, and considering the appointments either as improper in themselves, or improperly made, and that commissions, like deeds, were incomplete and revocable till delivery, determined to withhold them. The parties applied to the Supreme Court for a mandamus, directed to Mr. Madison, then Secretary of State, to compel the delivery of the commissions. The Court decided that though they had no jurisdiction to grant a mandamus in the case, (it not being embraced among those cases of original jurisdiction committed to them,) yet that the parties had acquired, by the signing and sealing of the commissions, without delivery, an absolute and legal right to the offices in question, which might be enforced against an independent department of the Government by a judicial tribunal.

I must leave it to Mr. Jefferson, in his own strong language, and with a reasoning which appears to me irresistible, to show the fundamental and dangerous errors of this decision, now relied on by the honorable Senator from Kentucky. In a letter addressed to Mr. Hay, attorney of the United States for the District of Virginia, during the progress of Burr's trial, at Richmond, he writes thus:

"I observe that the case of *Marbury vs. Madison* has been cited, and I think it material to stop at the threshold the citing that case as authority, and to have it denied to be law. 1. Because the judges, in the outset, disclaimed all cognizance of the case; although they then went on to say what would have been their opinion had they had cognizance of it. This, then, was confessedly an extra-judicial opinion, and, as such, of no authority.

2. Because, had it been judicially pronounced, it would have been against law; for, to a commission, a deed, a bond, delivery is essential to give validity. Until, therefore, the commission is delivered out of the hands of the Executive and his agents, it is not his deed. He may withhold or cancel it at pleasure, as he might his private deed in the same situation. The constitution intended that the three great branches of the Government should be co-ordinate, and independent of each other. As to acts, therefore, which are to be done by either, it has given no control to another branch."

"The Executive and Senate act on the construction that until delivery from the Executive Department, a commission is in their possession and within their rightful power; and in cases of commissions not revocable at will, where, after the Senate's approbation, and the President's signing and sealing, new information of the unfitness of the person has come to hand before the delivery of the commission, new nominations have been made and approved, and new commissions have issued.

"On this construction I have hitherto acted; and this I shall ever act, and maintain it with the powers of the Government against any control which may be attempted by the judges in subversion of the independence of the Executive and Senate within their peculiar department."

This answer of Mr. Jefferson, sir, to the Supreme Court, appears to me to be conclusive and irrefragable. It shows that the doctrine of *Marbury vs. Madison* was wrong, not merely with regard to the merits of the particular case, but dangerously wrong in another aspect, in asserting a claim of the judiciary (which is now reiterated by the honorable Senator from Kentucky) to control an independent branch of the Government in matters confided by the constitution to its separate and responsible action. As this last aspect of the decision involves a question of the gravest import—one affecting that fundamental principle, not merely of our constitution, but of free Government in general, which prescribes the separation and mutual independence of the three great departments, Legislative, Executive, and Judicial—a question too, in regard to which the imputed opinions of the present Chief Magistrate have been freely commented upon in the course of this discussion.

* In the famous case of Jonathan Robbins, debated in Congress in the year 1800, the eminent lawyer and afterwards Chief Justice of the Supreme Court, and then a member of the House of Representatives, John Marshall, thus expressed himself in relation to the judicial power of the United States:

"By the constitution, the judicial power of the United States is extended to all cases in law and equity, arising under the constitution, laws, and treaties of the United States." "A case in law or equity was a term well understood, and of limited signification. It was a controversy between parties which had taken a shape for judicial decision." "By extending the judicial power to all cases in law and equity, the constitution had never been understood to confer on that department any political power whatever. To come within this description, a question must assume a legal form for forensic litigation and judicial decision. There must be parties to come into court, who can be reached by its process, and bound by its power; whose rights admit of ultimate decision by a tribunal to which they are bound to submit."—*For the whole speech see this Abridgment, Vol. II., p. 487.*

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I beg permission of the Senate, while I have the writings of Mr. Jefferson in my hand, to read what was uttered by this great Republican Oracle on this important subject. In a letter addressed by him, in 1819, to Judge Roane, himself one of the most profound constitutional jurists of our country, he expressed himself thus:—"My construction of the constitution is very different from that you quote. It is, that each department is truly independent of the others, and has an equal right to decide for itself what is the meaning of the constitution in the cases submitted to its action; and especially where it is to act ultimately and without appeal. I will explain myself by examples which, having occurred while I was in office, are better known to me, and the principles which governed them. A Legislature had passed the sedition law. The federal courts had subjected certain individuals to its penalties, of fine and imprisonment. On coming into office, I released the individuals by the power of pardon, committed to Executive discretion, which could never be more properly exercised than where citizens were suffering without the authority of law, or, which was equivalent, under a law unauthorized by the constitution, and therefore null. In the case of *Marbury and Madison*, the federal judges declared that commissions signed and sealed by the President, were valid, although not delivered. I deem delivery essential to complete a deed which, as long as it remains in the hands of the party, is as yet no deed; it is in *posse* only, but not in *esse*, and I withheld delivery of the commissions." (Yes, sir, I, the President, not the Secretary, withheld the commissions.) "They cannot issue a *mandamus* to the President or Legislature, or to any of their officers—(the constitution controlling the common law in this particularly.) When the British treaty of 1807 arrived, without any provision against impressment of our seamen, I determined not to ratify it. The Senate thought I should ask their advice. I thought that would be a mockery of them, when I was predetermined against following it, should they advise its ratification. The constitution had made their advice necessary to confirm a treaty, but not to reject it. This has been blamed by some; but I have never doubted its soundness. In the cases of two persons, *antemati*, under exactly similar circumstances, the federal court had determined that one of them (Duane) was not a citizen; the House of Representatives, nevertheless, determined that the other (Smith, of South Carolina) was a citizen, and admitted him to a seat in their body. Duane was a republican, and Smith a federalist, and these decisions were during the federal ascendancy. These are examples of my position, that each of the three departments has equally the right to decide for itself what is its duty under the constitution, without any regard to what the others may have decided for themselves under a similar question."

Without entering at this time, sir, into any discussion of those important principles, I will only say, that if the present Chief Magistrate has sinned against the constitution by any doctrines which he has advanced, or is supposed to entertain on this subject, he has sinned in company with the great apostle of American liberty and of the rights of man.

To sum up, then, in a few words, the results of what has been said, I think it has been shown that, according to the true theory of the constitution, the President of the United States, in whom the "executive power is vested," is made responsible for the conduct and proceedings of all the Executive Departments—that, as a necessary consequence of that responsibility, he has a constitutional right to inspect, superintend, and control the operations of those Departments—and that at the very organization of the Government, immediately succeeding the adoption of the constitution, the correctness of these principles was acknowledged in the most formal manner, and after the fullest discussion, by an explicit recognition of the power of the President to remove from office any of the functionaries of the Executive Departments—a power which has never since been questioned.

The power of removal, existing alike in regard to the Secretary of the Treasury and the other heads of departments, may be rightfully exercised for reasons so various that it is impossible to reduce them to any general classification. The President, who possesses the power, is to judge, in the first instance at least, of the reasons for its exercise. In the debate of '89, so frequently appealed to on this subject, Mr. Madison said: "If a head of a Department shall not conform to the judgment of the President, in doing the Executive duties of his office, he may be displaced." The honorable Senator from New Jersey, (Mr. SOUTHARD,) who spoke a few days ago, cited the opinion expressed by Mr. Madison in the same debate, that the President might be impeached for a wanton removal of a public officer. Sir, I do not doubt it; but I beg leave to remind the honorable Senator of a correlative opinion delivered by Mr. Madison on the same occasion—that the President might be properly impeached also for neglecting to remove a public officer, when the public interest demanded it. And this, sir, suggests the true mode of testing the question which has been raised of the President's constitutional power to remove the late Secretary of the Treasury, for his refusal (in the language of Mr. Madison, just cited) "to conform to the judgment of the President" on the subject of the public deposits. Let us reverse the case, which actually occurred, and suppose that the Secretary of the Treasury, instead of the President, had desired a transfer of the public deposits—that he did so without any sufficient reason, and was about to commit them to banks of questionable solvency or of notorious insolvency. If the President, entertaining a different opinion of the expediency

and propriety, had stood by, and renouncing the salutary control which the constitution had placed in his hands by the power of removal, had permitted his Secretary quietly to consummate his purpose, on the ground that the President had no right to interfere with a discretionary power intrusted by Congress to a head of a Department, what then would have been said? We should have heard, sir, denunciations not less loud and vehement than those which have been uttered on the present occasion, thundering against him, but upon a different principle. We should then have been told, sir, that the President had been recreant to his high trust; that he had been armed with the power of removal expressly to protect the public interests from the faithlessness or incapacity of public officers, and that, in failing to exercise it, he had weakly and wickedly betrayed his duty to the constitution and to the country.

Having thus reviewed, Mr. President, the doctrines, to me, I must say novel doctrines, of constitutional law which have been advanced by the honorable Senator from Kentucky, (Mr. CLAY,) I will detain the Senate but with a few words more. The honorable Senator told us, with a deep and mournful pathos, that we are in the midst of a revolution. I agree with him, sir; we are in the midst of a revolution—a happy and auspicious revolution, like the “civil revolution of 1800,” which, according to Mr. Jefferson, was “as real a revolution in the principles, as that of ’76 was in the form, of our Government.” A like salutary revolution “in the principles of the Government,” we have seen accomplished during the last five years of its administration. In that time, sir, we have seen the Government brought back to its “republican tack,” from the deviations of latitudinous power into which it had fatally fallen. We have seen an unconstitutional and corrupting system of internal improvements, under the patronage of the federal authority, arrested, and those great local interests remitted to their natural and safe guardians, the Governments of the States. We have seen the bank, the “first-born” of federal usurpations, foiled in its efforts to perpetuate its existence, and to confirm its triumph over the sanctity of the constitution. We have seen, finally, the American System of the honorable Senator himself; a system which we of the South have felt to be one, not of protection, but oppression; we have seen that, too, partially overthrown and abandoned. Here, indeed, is a happy and glorious revolution for those who have cherished the cardinal principles of limited constitutional construction, of freedom of industry, of equality of public burdens. And for these great results, we are indebted to the firmness, the vigor, the patriotism, of the individual who now presides over the administration of the Government, sustained by the virtuous confidence of a free people.

A profound thinker, sir, with whom I have had the good fortune to serve in the public

councils, but who is now in private life, and to whom it affords me sincere gratification to have this opportunity of paying the tribute of a cordial and respectful remembrance, (Mr. S. C. ALLEN, of Massachusetts,) has beautifully and philosophically said, that “associated wealth is the dynasty of modern States.” Sir, it is so. This modern dynasty is now seeking to establish its sway over us in the worst of all forms—that of a great legal corporation, ramified and extended through the Union, directed by irresponsible authority, controlling the fortunes and the hopes of individuals and communities, influencing the public press, dictating to the organs of the public will.

I may be permitted, Mr. President, to recall to the recollection of the Senate the solemn language of a great patriot and statesman of another country on an occasion not unlike the present. It was on the memorable impeachment of Warren Hastings, sir, that Edmund Burke, with the profound sagacity which belonged to his genius, held the following impressive language to the highest judicial and legislative body of his country:

“To-day, the Commons of Great Britain prosecute the delinquents of India. To-morrow, the delinquents of India may be the Commons of Great Britain. We all know and feel the force of money, and we now call upon you for justice in this cause of money. We call upon you for the preservation of our manners—of our virtues. We call upon you for our national character. We call upon you for our liberties.”

Sir, an American Senator, applying to his own times and country the solemn appeal of the British patriot, might well say: To-day the Congress of the United States sits in judgment on the monopolists of the bank. To-morrow the monopolists of the bank may be the Congress of the United States. All history hath taught us the dangerous power of moneyed corporations, and we now see and feel that power exerted in the most dangerous of all forms, in assailing the purity of our republican manners, undermining the stability of our institutions, and awing the deliberations of our public councils. Sir, the American people—yes, sir, the people—when their true voice shall be heard, call upon us for justice in this great cause of money, violating and trampling upon the guarantees of freedom. They call upon us for the preservation of the public morals, exposed to a new and daring corruption. They call upon us for the vindication of our national character from the scandal of practices before unknown in our history. They call upon us for the rescue of their liberties from the grasp of a selfish and unrelenting moneyed despotism. They call upon us, sir, for the performance of these high duties, and worthily, I trust, will the call be answered by the firmness, the constancy, and the patriotism of their representatives.

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Public Distress.

[SENATE.]

MONDAY, JANUARY 20.

Public Distress—Removal of the Deposits.

Mr. WEBSTER presented to the Senate a series of resolutions, adopted at a numerous meeting of the citizens of Boston, without distinction of party, held at Faneuil Hall, to consider the state of the currency and finances of the country.

The resolutions having been read—

Mr. WEBSTER said he wished to bear unequivocal and decided testimony to the respectability, intelligence, and disinterestedness, of the long list of gentlemen at whose instance this meeting was assembled. The meeting, said Mr. W., was connected with no party purpose whatever. It had an object more sober, more cogent, more interesting to the whole community, than mere party questions. The Senate will perceive, in the tone of these resolutions, no intention to exaggerate or inflame; no disposition to get up excitement or to spread alarm. I hope the restrained and serious manner, the moderation of temper, and the exemplary candor, of these resolutions, in connection with the plain truths which they contain, will give them just weight with the Senate. I assure you, sir, the members composing this meeting were neither capitalists, nor speculators, nor alarmists. They are merchants, traders, mechanics, artisans, and others engaged in the active business of life. They are of the muscular portion of society; and they desire to lay before Congress an evil, which they feel to press sorely on their occupations, their earnings, their labor, and their property; and to express their conscientious conviction of the causes of that evil. If intelligence, if pure intention, if deep and widespread connection with business, in its various branches, if thorough practical knowledge and experience—if inseparable union between their own prosperity and the prosperity of the whole country, authorize men to speak, and give them a right to be heard, the sentiments of this meeting ought to make an impression. For one, sir, I entirely concur in all their opinions. I adopt their first fourteen resolutions, without alteration or qualification, as setting forth truly the present state of things, stating truly its causes, and pointing to the true remedy.

Mr. President, said Mr. W., now that I am speaking, I will use the opportunity to say a few words, which I intended to say, in the course of the morning, on the coming up of the resolution which now lies on the table; but which are as applicable to this occasion as to that.

An opportunity may, perhaps, be hereafter afforded me, of discussing the reasons given by the Secretary, for the very important measure, adopted by him, in removing the deposits. But, as I know not how near that time may be, I desire, in the meanwhile, to make my opinions known, without reserve, on the present state of the country. Without intending to discuss any thing at present, I feel it my duty, never-

theless, to let my sentiments and my convictions be understood. In the first place, then, sir, I agree with those who think that there is a severe pressure in the money market, and very serious embarrassment felt in all branches of the national industry. I think this is not local, but general; general, at least, over every part of the country, where the cause has yet begun to operate, and sure to become, not only general, but universal, as the operation of the cause shall spread. If evidence were wanted, in addition to all that is told us by those who know, the high rate of interest, now at 12 per cent. or higher, where it was hardly 6, last September—the depression of all stocks, some ten, some twenty, some thirty per cent.—and the low prices of commodities, are proofs abundantly sufficient, to show the existence of the pressure. But, sir, labor—that most extensive of all interests—American manual labor—feels, or will feel, the shock more sensibly, far more sensibly, than capital or property of any kind. Public works have stopped, or must stop; great private undertakings, employing many hands, have ceased, and others must cease. A great lowering of the rates of wages, as well as a depreciation of property, is the inevitable consequence of causes now in full operation. Serious embarrassments in all branches of business do certainly exist.

I am of opinion, therefore, that there is, undoubtedly, a very severe pressure on the community, which Congress ought to relieve if it can; and that this pressure is not an instance of the ordinary reaction, or the ebbing and flowing of commercial affairs; but is an extraordinary case, produced by an extraordinary cause.

In the next place, sir, I agree entirely with the 11th Boston resolution, as to the causes of this embarrassment. We were in a state of high prosperity, commercial and agricultural. Every branch of business pushed far, and the credit, as well as the capital of the country, employed to near its utmost limits. In this state of things, some degree of overtrading doubtless took place, which, however, if nothing else had occurred, would have been seasonably corrected by the ordinary and necessary operation of things. But, on this palmy state of things, the late measure of the Secretary fell, and has acted on it with powerful and lamentable effect. And I think, sir, that such a cause is entirely adequate to produce the effect; that it is wholly natural; and that it ought to have been foreseen that it would produce exactly such consequences. Those must have looked at the surface of things only, as it seems to me, who thought otherwise, and who expected that such an operation could be gone through with, without producing a very serious shock.

[Mr. W. considered the restoration of the deposits, and the recharter of the present Bank of the United States, as the adequate remedy for the present distress.]

Mr. EWING said: The removal of the Secretary of the Treasury from office I admit to be within the legal power of the President; but the object which was effected by that removal, the control thus taken and exercised over the public treasure, I hold to be an infraction of the constitution; and I shall now, by such arguments and authority as are in my mind conclusive, attempt to make good the position.

Those who maintain the power of the President over the Treasury, rest it upon an argument like this: The executive power is vested in the President—the custody of the public treasure is a portion of executive power; therefore, the custody of the public treasure is vested in the President; or, in this particular instance, they hold that, as the right to remove the deposits was vested by the bank charter in the Secretary of the Treasury, and as the Secretary of the Treasury is an executive officer, this special duty, which is assigned to him by law, falls under the general cognizance of the Executive head of the nation. These are the forms in which, if I understand them right, the arguments on the other side are presented.

The fatal error in their whole process of reasoning arises from this—that they give to certain general expressions in the constitution a power and extent which, as limited by the other special powers in that instrument, they do not possess. The two provisions, that “the executive power shall be vested in a President of the United States,” and “he shall see that the laws are faithfully executed,” are the basis of all the illimitable powers with which gentlemen seek to clothe the Chief Magistrate.

It should be observed, that the separation of powers in the Constitution of the United States is by no means perfect, especially between the legislative and executive departments. The first section of the first article of the constitution declares, that “all legislative power herein granted shall be vested in a Congress of the United States;” and yet, when we descend to the special distribution of the powers which follow, we find that all the legislative power therein granted is not vested in the Congress, but that a most important portion of it is vested in the President, namely, a veto power—a power which touches legislation nearly, vitally—a power which has grown up to great importance in the present day, and which threatens to absorb or paralyze all the powers of legislation.

By the first section of the second article of the constitution, “the executive power is vested in a President of the United States.” The word “all” used in the section granting the legislative power to Congress, is omitted in this. I do not lay much stress upon the omission, but I am certainly warranted in saying that the grant of executive power is not in terms more comprehensive than is the grant of legislative power, to the universality of which I have shown one strong exception. Indeed,

sir, without referring to the special designation of the several powers which is found in the articles of the constitution containing the general grants of the legislative power, it would be difficult, if not impossible, to determine what was intended to be included in each, especially in the latter; for judicial power is more distinct in its character, and more capable of a precise designation.

What is executive power? I never saw a definition from which a distinct conception of its essence or qualities could be gathered. Indeed, it is not susceptible of any, varying as it does in its properties and extent, in every form and modification of government. M. Necker, an author respectable, but not of high authority, assimilates it to that mysterious principle which, in the human frame, unites action to the will; the legislative power being the will. This would be intelligible enough, and practical also, if all power, as had been the case in France, centred in a single individual: there would be no clashing of those great separate powers, the one contravening or absorbing the other; it would be reduced to the same simple principle as that of human will and human action; the will dictating, and the active principle moving in exact accordance with it. But when the will and the active principle exist in different bodies, and the active principle, as in the case of our executive, has a will also of his own, if it extend to and penetrate every portion of the body politic, that will, which is accompanied with efficient action, must, as a necessary consequence, overturn or absorb all the powers of the legislative will, which is destitute of action. This notion of executive power will not do in a Government which, being free, intends to preserve its freedom; and it will be seen, by and by, that it is not the kind of executive power created by the framers of our constitution. It will not do to draw precedent from monarchical Governments to settle the extent of that power, unless we agree with them to admit the divine right of kings, and let our Executive become, as theirs, supreme and irresponsible. We must, then, examine the constitution itself minutely, and see if we can discover the meaning affixed to this important term, “executive power,” and what subjects properly fall within the scope of its influence.

The second section of the second article of the constitution contains a general enumeration of the powers and duties of the President; it makes him commander-in-chief of the army and navy, and of the militia, when called into actual service; it gives him the power of appointment, by and with the advice and consent of the Senate; and directs him to receive ambassadors and other public ministers; but it gives him no power over the Treasury, or the collection or disbursement of the revenue. But mark, sir, the duties specially assigned to Congress by the eighth section of the first article: “to lay and collect taxes, duties, imposts, and

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excises ; to pay the debts, and provide for the common defence." Congress not only lays, but collects duties and imposts. Why collect? The Senator from Virginia (Mr. RIVES) pronounces the collection of the revenue an act appropriate to the Executive; and it might well be so, if the constitution had not vested the duty in another department of the Government; and there is no accidental misuse of language here, for it is carried through in all the provisions of the constitution whenever the fiscal concerns of the nation are the subject of provision; and not only the laying and collecting of taxes, but the disbursement of those taxes. Congress, not the President, has power to "pay the national debt;" but, in the same sentence vesting these powers, Congress is authorized to "provide for the common defence," not to defend, for that is one of the powers granted to the Executive. Again: in the ninth section of the same article, which relates to the power of Congress, is a provision that "no money shall be drawn from the Treasury but in consequence of appropriations made by law," and that "a regular statement of receipts and expenditures of all public money shall be published from time to time;" clearly evidencing that the whole control of the public funds, the levying, collecting, keeping, and disbursing, is intrusted fully to Congress, and not at all to the President. I might refer to numerous provisions of this instrument, showing the accurate manner in which the powers and duties of each of the great departments of Government were limited and defined in the particular enumeration of the powers of each. For example, Congress is "to provide and maintain a navy," not to command or control it; for that power is vested in the President; but, as the purse is in the hands of Congress, they alone can provide and maintain. "To provide for calling forth the militia," not to call them forth; for that is the duty of the President. "To provide for organizing, arming, and disciplining the militia," not to organize, or arm them; for those are portions of the Executive duty. I have, sir, pursued this analysis far enough to show, (if, indeed, a doubt could ever seriously exist of the fact,) that, in all things relating to the public treasure, its levy, collection, safe-keeping, and disbursement, Executive interference has been carefully excluded by the framers of the constitution; and that the power of Congress extends to it throughout, in all its minutest details; but, on all subjects in which power is intended to be reposed in the Executive, Congress is merely required to provide the means by which that power may be exercised. This review of the provisions of the constitution was deemed necessary to give a full and distinct comprehension of the several acts creating the three (subsequently four) subordinate departments, whose duties and responsibilities are the more immediate subject of inquiry. The first Congress, which met in 1789, enacted the laws creating these departments; the sub-

jects relating to them were referred to the same committee, and they, after much consideration and lengthened debate, passed the several laws in their present forms. Two of them, that of War and of Foreign Affairs, are, in their titles, called "Executive Departments," the other is simply styled "the Treasury Department." But it is said, sir, that the title of an act proves nothing; that it cannot be used in giving it a construction. This, I admit, is true in the main; but taking into view the circumstances under which these acts were passed, and the high importance attached to them by the Congress and the people of that day, it could hardly be by accident that the title of these laws, reported by the same committee, and under consideration by the same Congress, at the same time, should differ in so important a feature. But we may, on the strictest legal principles, refer to the body of the act, and insist that that shall fix its construction, and be taken as the index of the sense of the legislature which enacted it.

The first section of the act establishing what is now called the Department of State, provides, "that there shall be an Executive Department, to be denominated the Department of Foreign Affairs," and the chief officer of that department is required to "perform and execute such duties as shall, from time to time, be enjoined on, or intrusted to him by the President of the United States, agreeably to the constitution, relative to correspondences, commissions, or instructions to or with public ministers," &c.; and, by reference to the act it will be seen that no single duty is annexed to his office, or a single trust reposed in him, which is not part and parcel of the duty of the President, as enjoined by the constitution in the special enumeration of his powers. This, then, is properly called an Executive Department, both in the title and the body of the act; and the officer at the head of this department is properly made obedient to the President within the sphere of his constitutional duties.

Next in order is the Department of War. The first section of the act creating it denominates it also Executive: "That there shall be an Executive Department, to be denominated the Department of War," and the principal officer therein is likewise charged with duties which the constitution had assigned to the Executive; and he is required to conduct the business of his department in such manner as the President of the United States shall, from time to time, order and direct.

The act creating the Treasury Department does not, either in the title or body of the act, style it Executive. The first section provides "that there shall be a Department of the Treasury," and directs the appointment of a Secretary, who shall be head of the department. His duties, also, coincide in all respects with those which arise out of the powers granted to Congress by the constitution; none of them touch the prescribed functions of the Chief

Magistrate. He "shall digest and prepare plans for the improvement and management of the revenue, and for the support of public credit; prepare and report estimates of public revenue and expenditures; superintend the collection of the revenue," &c.—all duties especially devolved upon the Congress by the constitution, as I have already shown; and that his character may be more distinctly marked as the officer of Congress, and not of the President, he alone, of all the heads of Departments, is specially required to "make report and give information to either branch of the Legislature, in person or in writing, as he may be required, respecting all matters which may be referred to him by the Senate or House of Representatives, or which shall appertain to his office." The marked distinction in the character and duties of these departments, designated by the law—the fact that, while the Secretary of State and the Secretary of War are made directly responsible to the President, and required to perform their several duties in obedience to his instructions and commands, the Secretary of the Treasury is made subservient to no commands except those of the Houses of Congress, and is charged with no duties except such as the constitution enjoins upon them, would seem, according to all acknowledged principles of interpretation, to carry with it a strong negative of the claim of power which the President has assumed to exercise over the prescribed duties of the Secretary of the Treasury. That Secretary is not an executive officer, and the President has no more right to order and direct how he shall perform any of his appropriate duties, or take their performance out of his hands, than either House of Congress has to interfere with the discharge of the appropriate duties of the Secretary of State or of War.

But the Senator from Virginia (Mr. Rives) says that the duties of the Secretary of the Treasury are executive in their character, and he instanced the duty of digesting and preparing plans for the improvement of the revenue. Now, sir, with all due deference to the superior political knowledge and acumen of the honorable Senator, I am constrained to differ from him wholly and absolutely. There is nothing more executive in its nature, in devising, and preparing, a plan for the improvement of the revenue, than there is in devising, and preparing, and enacting a law for the same purpose. Both require the intellect, the mind, and judgment, rather than the mere active principle, to bring them to pass. The duty enjoined on this Secretary is not that executive act which follows legislation, and carries into effect the law, but it is legislation in its incipient stage, or rather a gathering together, and arranging the elements out of which legislation is to arise. Now, it is obvious that this must be done by those who bear the burden of legislation, and they may do it themselves, or employ an appropriate agent or agents to perform it; they might direct a Committee of Congress to per-

form it during vacation; they might appoint a commission by law for the same purpose; or they might do it as they have done, appoint an officer, who should be emphatically theirs, and accountable to them to perform it. The same may be said of the other duties enjoined by law on this officer. In truth, sir, this very vague and indefinite sense which gentlemen attach to the term executive power and executive duty—a term which may be extended so as to overshadow all the other powers and functions of Government—is proof, if any were wanting, of the wisdom of the framers of our constitution in defining the term by a particular distribution of specially enumerated powers. But the honorable Senator contends that it is an executive duty to report to Congress, because the President himself is required to report, or rather to recommend to Congress, such matters as he shall think expedient. True, the constitution imposes upon him a special duty by special designation; but this does not prove that it is therefore his, in consequence of the general grant of executive power. The usual process of legal reasoning would prove directly the reverse: if it had been covered by the general grant, it would not have been afterwards specially designated. Sir, the reason for the different frame and construction of the law, creating the three subordinate departments of Government, must be already sufficiently obvious. The subject-matter over which the two first have charge is executive in its nature, and is vested by the constitution in the President; the last having to do only with the finances of the country—a subject-matter, which to its fullest extent, and in all its modifications, is intrusted to Congress—is placed under the control of the Secretary of the Treasury. Congress could not, without a surrender of their most sacred trust, have rendered him an executive officer, and have required or permitted him to discharge his duties in such manner as he should be directed by the President. His duties, therefore, are to be performed under the direction of the Legislature, and the subject over which he performs them is a legislative trust.

By the bank charter of 1816, section 16, we find another portion of the power of Congress vested in the same officer; a power alike relating to the finances, and for which he is, as in other cases, made responsible to Congress. The sixteenth section of the bank charter provides, "that the deposits of the money of the United States, in places in which the said bank and the branches thereof may be established, shall be made in said bank or branches thereof, unless the Secretary of the Treasury shall at any time otherwise order and direct; in which case, the Secretary of the Treasury shall immediately lay before Congress, if in session, and, if not, immediately after the commencement of the next session, the reasons of such order and direction." Here, again, is a power vested in the Secretary of the Treasury over the finances—a power evidently subject to re-

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vision; and as it is a power relating to a subject-matter which is placed under the control and protection of Congress, we would be led *a priori* to conclude that Congress would be the supervisory power over his acts; and so, indeed, it is. Our whole system of legislation is perfect and consistent; from the constitution down to the latest law passed upon the subject, all suppose the power of the finances inseparably vested in Congress, and severed by an impassable barrier from executive control: but that legislation has been set at defiance; the constitutional provisions have been disregarded; the barriers raised by its framers for the protection of popular liberty have been broken down; and the public treasure is poured into the coffers of the Executive. The Secretary of the Treasury, himself, in the reasons which he renders to Congress for the removal of the public deposits, admits that the place of safe keeping for the national funds is a matter properly of legislative determination; and he seems to wonder that Congress ever placed it under the care of the Executive. Sir, the public funds were never placed under the control of the Executive, constitutionally or legally. The control which he has exercised over them is without law, or, rather, in defiance of law; and all the authority which the Secretary is disposed to yield to the President over his official acts is so far an abandonment, on his part, of the trust reposed in him by law.

By the act establishing the Treasury Department, to which I have already referred, the Secretary of the Treasury is required "to superintend the collection of the revenue;" by which is to be understood all such acts as are necessary to be performed before placing the money in the public treasury. When placed there the collection of it has ceased, and the superintendence over that collection, given to the Secretary, ceases to confer on him any power over it; all that he may possess further must be derived from some other provision or principle of law. But, under this provision, most of those acts of other Secretaries, which have been adduced here as precedents, have been performed, and rightfully performed. As, for example: Alexander Hamilton, when Secretary of the Treasury, directed the collector of the port of Charleston to pay over the public money as he collected it, and to deposit the public bonds with an individual, (Mr. Habersham.) But it will be perceived, at once, that this was a part of the act of collecting, and bringing the public money into the treasury, and under the control of the treasurer; and this course must have been taken; the money must have been paid to an agent of the department, for application or transmission; or it must have remained in the hands of the collector until it should be drawn for, or be transmitted by him, and paid over to the treasury. And here, sir, arises the much disputed question, what is the treasury of the United States? The most simple idea of it would be, that it were a strong

box; or a strong vault, in which the money of the nation is garnered up, and kept under the custody of the treasurer. But this is not true in practice or in fact. We have no such strong box or vault. It therefore is what Congress has seen fit to make it; and here I beg leave to say, that the definition of it given by the Senator from Virginia, (Mr. Rives,) coincides very nearly with my own conception of the thing. It is the state and condition of the public funds as fixed by law, and it involves custody, either with or without locality. Well, the funds of the United States were, pursuant to law, collected and deposited in the Bank of the United States. Now I ask the honorable Senator from Virginia, if, according to his own definition, the state and condition of their funds in this bank, inasmuch as it was that condition provided by law—I ask him, sir, if this does not come full up to his conception of the treasury; and if the withdrawal of those funds from that prescribed condition, without law, be not a withdrawal from the treasury?

We have then, sir, settled upon a determinate notion as to what the treasury is; and I think myself safe in the conclusion that the Bank of the United States, so far forth as it contained public funds, placed in it by command of law, and of which the law has not authorized the removal, is that treasury. I will now inquire by what authority the money of the United States was removed from that custody, and placed in other hands.

I have shown that the act of removal does not pertain to the collection of the revenue; and care should be taken, if we wish to arrive at a true result, that the duties of collection, and the removal from the legal custody, of funds already collected, should not be confounded.

The ninth section of the first article of the constitution ordains, "that no money shall be drawn from the treasury but in consequence of appropriations made by law." The law defining the duty of the Secretary of the Treasury reiterates the same provision. Unless, therefore, some clause in the law incorporating the bank gives him the power claimed over the public funds, he has it not. The fifteenth section of the bank charter is that under which I understand the power is claimed. It provides "that, during the continuance of this act, and whenever required by the Secretary of the Treasury, the corporation shall give the necessary facilities for transferring the public funds from place to place, within the United States or the territories thereof, and for distributing the same in payment of the public creditor." This is the clause supposed to vest in the Secretary of the Treasury this power.

Mr. President, the power of removal from office as a constitutional, contradistinguished from a legal power, has been asserted in this debate to exist in the Executive; and it has been pressed with an energy and emphasis which is not easily accounted for by any bear-

ing which its determination either way can have upon the present question. It is, however, a familiar practice with the supporters of high prerogative, to go as far back as possible in tracing its origin. Hence, the theory of the divine right of kings, which it is said to be blasphemy to call in question. To question this imputed power of the President is, according to gentlemen here, a violation of the constitution. It is only on account of the general bearing of this doctrine, its tendency to centre and combine all the powers of the Government in one man, that I here touch the subject, as time will not permit me to dwell upon it. And let me be understood; I admit that the power of removal in the given case is vested in the President by law; but I deny that it is a power granted by or growing out of the constitution.

From what I said at the opening of my remarks on the nature of Executive power, and from the authority then cited, it will, I think, be manifest, that in no country, except those purely despotic in their form of government, or those closely verging on despotism in their genius and character, does the single abstract idea of Executive power carry with it, as of its essence, or even of its nature, the power also to appoint or to remove from office. The opinions of men are, in this respect, moulded and fashioned to the nature of their Government—where all power is supposed to be originally vested in the sovereign Executive; who holds that power by right of conquest or divine right—where the king is the fountain of justice and the fountain of honor, and the chief source of law, the opinion that this power is an essential power of the prerogative may well prevail; and that a king is possessed of it until, by charter, he shall have in whole or in part resigned it. But in a Government which rests upon the principle that all power originates with and centres in the people, the Executive power, and every other power which they may vest in their governors, is just what they please to make it. Such is our Government in its form and theory, and the powers of our Executive are to be sought for in the constitution, by a just and legitimate construction of that instrument.

The opinion of M. Necker, which I have already referred to, that "the executive power represents in the political system that mysterious principle which, in the moral man, unites action to the will," does not seem to carry with it the idea of the power of creation or destruction over the instruments with which that will is to be performed. The same writer, in another place, speaking of the wild views of the framers of the French constitution of 1790, says, "They treated this power (the Executive) as if it had been a supernatural pre-existent faculty," and he complains that they created an Executive, without conferring on it a participation in the appointment to office, and some other patronage necessary to sustain its dignity and independence. Hence, I conclude that, in

the opinion of this writer, at least, the term Executive power did not, of itself *ex vi termini*, involve the power of appointment and removal from office. I will also take leave to refer to a writer (Ackerly) on the British constitution, whose work appeared about the middle of the 18th century. The author supposes a convention of the people assembled to fix, by mutual consent, the constitution of the monarchy; and in this assembly, Britannicus, a leading member, proposed "that the intended king, as head, should have the whole executive power of the laws, and to take care of the administration of justice, and that he should neither deny, delay, nor sell justice to any man. He further propounded, that the intended king should have the sole appointment and nomination of all his judges, ministers of State, his admirals and generals, and all other officers in the State, both civil and military."

Mr. President, I have dwelt longer on this subject than I intended, and I regret that it has arisen as an incidental question in debate; it is itself worthy of a separate and a full discussion; but I could not consent that, by this indirection, the constitutional rights of this body should be cast as an offering at the footstool of power, without entering my most solemn protest against the surrender.

TUESDAY, JANUARY 21.

Origin of Book Purchases for Members.

On motion of Mr. WEBSTER, the Senate proceeded to consider the bill making appropriations, in part, for the service of the year 1834, with the message from the House of Representatives disagreeing to the amendment of the Senate for striking out the clause restricting the application of the contingent fund of each House on the subject of printing.

Mr. W. explained, that this bill had been already before the Committee on Finance, who had reported two amendments to the bill as it came from the House of Representatives. One of these amendments related to an error in the estimate of the expenses of the Secretary's office, which had been agreed to by the House, and there was nothing more to be said about it. The other amendment of the Senate was to strike out the clause in the bill which limited the application of the contingent fund in the printing department, to the printing of such documents only as related to the ordinary proceedings of Congress, and were executed by the public printer under his contract; and to this amendment the House of Representatives had disagreed. He should now close the few remarks he had to make with a motion that the Senate adhere to their amendment.

The contingent expenditures of the House of Representatives are stated in the bill at \$150,000, including fuel, stationery, printing, &c. The contingent expenses of the Senate were estimated at \$32,000. Whether these sums

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were too large, or too small, he did not pretend to say. He had no doubt that they were large enough, and he should be content with any order which the Senate might take concerning them. But he wished to call the attention of the Senate to the clause which had been stricken out by the Senate, and which he asked the Secretary now to read. [The clause having been read, Mr. WEBSTER resumed.] If the Senate agreed to retain this clause, so let it be. His disposition was, to adhere to the amendment by which it had been stricken out. A similar provision to this had been in the bill for some years, and such was its inconvenience, and the impracticability of carrying it into effect, that the officers of the two Houses had been compelled to disobey the restriction. It excepted works which were printed by order of the House of Representatives, but not those which were printed by order of the Senate. He objected to the principle involved in the clause, and desired to know why the Senate were not to be trusted with the regulation and application of their own contingent fund? If they were allowed to purchase what fuel they chose, they ought to be also allowed to order the printing of such works as they desired. The clause excepted such works as were executed by the public printer. He knew no such officer as the public printer. Each House made a contract with a printer, but there is no such officer as public printer. The House ordered books with as much liberality as did the Senate, but the House might pay for the books which they ordered, under this construction, while the Senate could do no such thing. A member near him (Mr. WILKINS) had recently moved for an additional number of a work which had been ordered by a previous Congress, for the supply of new members. But if this clause were to be retained, the Senate could not pay for these books. So the gentleman from Mississippi (Mr. POINDRELL) had, at the instance of two of the Committee of the Senate—the Committee on Public Lands, and the Committee on Private Land Claims—introduced a resolution, under which a compilation of the land laws was ordered. But the Senate, with this clause standing in the bill, could not pay for them. Even the little map of Narragansett Bay, of which the printing had been asked, could not be paid for, and the gentleman from Georgia might have spared himself the labor of opposing the order.

He moved that the Senate do adhere to their amendment.

Mr. FORSYTH called for the reading of the clause which had been stricken out by the Senate. After the clause had been read, he stated that this subject had been before Congress formerly, and he thought that the House was in the right. Their object was to check the abuses which had been practised on the contingent fund. That fund was created for the payment of the necessary expenses of Congress, while the Houses were in session. Abuses

had subsequently crept in, one of which was to bestow the patronage of Congress on a variety of works, political and otherwise. A man who had on hand a large stock of copies of a book which he could not throw in the market, could come here, and through the influence of a friend in one of the Houses, ask for a subscription, the advantage of which was exclusively to himself. And thus Congress were made the purchasers of a great many bad books, which were thus thrust upon the public. Another abuse was the application of this fund to enable publishers to get up new works, which could not be published without the aid of Congress. He recollected at the first session in which he was in Congress, a large appropriation for the publication of Seybert's Statistics. This patronage encouraged Mr. Pitkin afterwards to get up his Statistics. Another subscription was made by the House of Representatives to Gales & Seaton's Register of Debates, by which an annual appropriation of \$2,500 was made to sustain that work. This course of expenditure continued for some years; until, finally, in consequence of doubts which had arisen as to the merits of the work on which this patronage was conferred, this clause was attached to the appropriation bill. He was of opinion that the clause was a very proper one, and he hoped the Senate would agree to retain it. He should vote against the motion to adhere.

Mr. KANE admitted that it might be all true that the Senate had acted unwisely in ordering works. But he did not view that as the question now before the Senate. The Senate has ordered a number of new books, and the question was, whether the works which had been so ordered, and which were in use by the Senate, were to be paid for, or not. He thought that the faith of the Senate was pledged for the payment of the works they had ordered, and he could not see any other mode by which this could be effected, than by striking out this restriction. There appeared to him to be no other mode than to hold on to the clause, by agreeing to the motion of the Senator from Massachusetts. The Senate had made up their minds that certain books were useful, and had ordered these works. On the faith of this procedure, the contractors had gone on with the publication of the works, and the Senate were bound to fulfil their obligation to pay for them. He should therefore vote in favor of the motion to adhere.

Mr. KINE said, that he had for some time seen a disposition to squander the contingent fund of Congress, and it was this disposition which had led to the introduction of this clause into the bill. He objected to the motion of the Senator from Massachusetts, because it risked the loss of the bill. It was not usual to make such a motion at so early a stage of the proceedings, and he regarded it as disrespectful to the House of Representatives. The earliest motion ought to have been to insist: then, in case of disagreement on the part of the House, it was

the usual course to call a conference. If the Senate were now to agree to a motion to adhere, would not the bill be lost in the event of disagreement on the part of the House? [Mr. WEBSTER—"Certainly."] He would then oppose this motion, as he did not see any thing in the clause introduced by the House which ought to excite opposition.

Mr. WEBSTER rose merely to answer that point in the argument of the Senator from Alabama which attributed to him (Mr. W.) an intention to offer disrespect to the House. He had looked into this matter before he submitted his motion, and, on examining the precedents, had found that a similar motion had been made, in this stage, by many distinguished persons, and *inter alias*, by the gentleman from Alabama himself, on a question of great public interest. In reference to the relative rights of the two Houses over their own contingent fund, he considered this clause as not being in true taste. If the Senate believe they have the control of their own contingent fund, they should say so. The very nature of the contingent fund looked to other objects than such as were specified. Otherwise, there could be no contingency about it.

Mr. BENTON said the early subscriptions to books were for such as related to legislation, and aided the member in discharge of his duties—such as the debates of Congress. For such he had always voted, and against all others.

The question was then taken, and decided in favor of adherence—yeas 34, nays 18.

FREDAY, January 24.

Distress Petition.

Mr. WEBSTER presented the proceedings of a public meeting held in the town of New Bedford, in the State of Massachusetts.

Mr. W. said that New Bedford had been one of the most prosperous and fast-growing towns in Massachusetts. Its citizens were engaged in a most useful, hardy, and adventurous commerce, in which they had met with much success; and, three months ago, their condition was flourishing and happy; but a sudden and most extensive reverse has happened to it. Thirty or forty failures are said to have happened, and great pressure and distress prevail. I feel it my duty, said Mr. W., to present these things to the consideration of the Senate. If there can be either any faith in men's statements, or if facts be any proof, the pressure, so far from diminishing, is increasing. While we are talking about the danger of the moneyed aristocracy of the bank, a state of things is suffered to exist which is a perfect carnival to the real money aristocracy, if there be any such thing in the country. Capitalists holding up their money for such enormous rates of interest, and being able to command such rates, shows what sacrifices are made by industrious men, of small capital, to protect themselves

from absolute ruin. In many places numerous workmen have been thrown out of employ, not only in the manufacturing establishments, but in the mines of some of the Middle States. Indeed, if the information of this morning is correct, one of these States had suffered a great disappointment, in failing to receive the instalments on its loans according to contract, and was obliged to take other measures for supplying the means of carrying on its public works.

MONDAY, January 27.

Distress Petition.

Mr. FEELINGHUYSEN presented a petition from a number of citizens of Newark, New Jersey, praying that the deposits of the public moneys may be restored to the Bank of the United States.

[On presenting the memorial, Mr. F. accompanied it with a speech, in which he said it was signed by 1,341 of the citizens of Newark, comprising four-fifths of the business population, now reduced to the deepest pecuniary distress by the removal of the deposits, and praying their restoration.]

General Appropriation Bill—Contingent Expenses of the two Houses—Purchase of Books for Members.

Mr. WEBSTER, from the Committee of Managers appointed on the part of the Senate, to confer with the Managers of the House of Representatives on the subject-matter of the disagreeing votes of the two Houses on the second amendment to the appropriation bill, made a report as follows:

"The managers appointed by the Senate to meet the managers on the part of the House of Representatives, in conference, on the subject of the disagreeing votes of the two Houses on the second amendment of the Senate to the bill, entitled 'An act making appropriations, in part, for the support of Government for the year 1834,' report—

"That they have met the managers on the part of the House of Representatives, and have held a free conference with them upon the difference existing between the two Houses, and have the pleasure to inform the Senate that the managers of the two Houses have come to an agreement upon the matter in difference. They have agreed to recommend to their respective Houses the following amendment to the bill, viz:

"Strike out all the bill from the 16th line of the printed bill, inclusive, and insert—

"And be it further enacted, That, hereafter, neither the Senate nor House of Representatives shall subscribe for or purchase any book, unless an appropriation shall be made specially for that purpose, and the sum of five thousand dollars is hereby appropriated, to be paid out of any money in the treasury not otherwise appropriated, annually, for the purchase of books for the Library of Congress, in addition to the sum of five thousand dollars heretofore usually appropriated for that purpose.

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Removal of the Deposits.

[SENATE.]

"And be it further enacted, That all books already purchased, or ordered by either House, shall be paid for out of any money in the treasury not otherwise appropriated."

Removal of the Deposits.

The Chair announced the special order, being the report of the Secretary of the Treasury, on the removal of the deposits; when

Mr. FORSYTH said: Both the resolutions of the Senator from Kentucky are objectionable, in form and substance. They are censorial, not corrective; vindictive, not legislative. They strike at a supposed offender—they offer no redress for the asserted injury. They are justly exposed to all the reprehension of the Senator from Missouri. The first resolution can be defended on but one ground—the right of the Senate, by the expression of its opinions, to appeal to the people, to control the exercise of power by the elective franchise—a call upon the people to awaken from a false security, and rescue their endangered prosperity from the hands of a corrupt, improvident, or unwise administration. Occasions for such expressions of opinion are of rare occurrence. They cannot be made with any show of justification when the legislative power of Congress is ample to correct the existing, to avert the coming evil. Is it pretended that the power of Congress is not ample to redress this imputed wrong? If the act done is corrupt in the Chief Magistrate or Secretary, impeach and punish—if they have acted unwisely, but not corruptly, legislate and control them.

The deposits have been removed from the United States Bank. The Secretary of the Treasury has told us that, in the exercise of the power given to him by the charter, he has decided that time and circumstances required him to perform the act. The President approves the act. He has done more: he urged the former Secretary of the Treasury to perform it. In my judgment the disposition of the deposits is neither the primary nor preliminary, but a dependent question. Changing the place of collecting eight or nine millions of dollars can be of no great consequence in its effects on the business or currency of the country. The most enlightened of the friends of the bank admit, that, of itself, the order of the Secretary has not produced, or ought not to have produced serious embarrassments in the systems of credit or exchange. The derangement, the pressure in the moneyed transactions of the commercial cities, proceed from the act of the bank, which wants to ascertain what is to be its fate. Is the charter to expire in 1836, or to be renewed? If the charter is not be renewed, a change in the place of deposits was a thing of course, and certainly there can be no ground for clamorous complaints at the performance of an act now, which must be performed at no distant day.

The time chosen for changing the place of the Government deposits has been a subject of reprehension; it was done, Senators say, but

two months before Congress met. Had I been an adviser of the President, I should have recommended delay. I should have said to him, I believe that the people have decided against a bank; that the majority of the representatives of the people, elected under the new census, bringing with them the popular sentiment, will record that judgment; but I advise you not to take it for granted that you understand the opinions of the House of Representatives. It is possible that the people may have continued you in place, and yet desire the continuance of the institution; wait until a vote of the House of Representatives renders their opinion not a matter of argument, but of undisputed and indisputable fact. The President has chosen to act upon the strong presumption afforded by the result of his own, and of the other popular elections. His justification depends upon the establishment of the fact presumed. But what right have we to complain? The course of the Senate was not misunderstood. Had it been, would it have been criminal in the President, or in the Secretary of the Treasury, to believe, and to act on the belief, that changes of opinion regarding the bank had been wrought here by changes in the State Governments? Can it be matter of supposition what are the wishes of the State sovereignties? Do they not correspond with the wishes of their respective sovereign, with the wishes of the sovereign of the United States.

But, sir, the President is arraigned for the exercise of a usurped authority over the public treasure. In the language of the Senator from Kentucky, he has laid an unhallowed hand upon the public purse. Is this fact or groundless assumption? By changing the places of collecting and depositing the revenue, has he increased his power over the money of the people? Can he now touch it without polluting his hands? Can the Secretary of the Treasury use one dollar of the public money in the State banks, more than he could before, when it was in the Bank of the United States and its branches? The same guaranties for the safety of our treasure now exist that formerly existed. The power of the President is neither increased nor diminished. If corrupt, the public money was equally within his reach in the Bank of the United States as in the State banks. But gentlemen assert that he has assumed the same power over the purse that he has over the sword. True, sir, he has exercised the same power over the purse and the sword. He has rightfully the same power over the sword and purse. He cannot use, and never has used, either, without legislative authority, given according to the provisions of the constitution. Can he unsheath the sword to strike abroad or at home? Can he lift his hand against foreign violence or domestic treason without our leave? So is it with the purse; he cannot, he dare not, touch one mill without legislative permission. A suggestion has been made, Mr. President, which I heard with regret, that the

public money has been placed in favorite partisan banks, where it is likely to be used for all purposes of speculation and speculation. This means, I presume, that the deposits being changed to the State banks, a new and unworthy class of persons will receive loans who could not have obtained them from the Bank of the United States. This sweeping denunciation of the respectable and irreproachable directors of all the State institutions trusted by the Secretary of the Treasury, is without the shadow of foundation. For skill and integrity they stand as fair as the directors of the Bank of the United States or any of its branches. The phrase of "favorite partisan banks" shows how idle the suggestion is. Of the banks now the depositories of the public money, the great mass are managed by persons decidedly opposed to the administration; who, on the question of re-chartering the Bank of the United States, differ with the Executive; whose influence and whose votes were against the present Chief Magistrate at the last election.

It is further alleged that the terms of the act establishing the Treasury Department prove that the Secretary was not to be under the control of the Executive. It is made his duty "to prepare and report plans for the improvement and management of the public revenue, and for the support of public credit," and "to report to either House of Congress upon any subject referred to him," &c. The Secretary being bound to report to Congress, and not to the Executive, it is gravely urged that the responsibility of the Secretary must be to Congress and not to the Executive. These clauses in the act of 1789 were not admitted without dispute and animadversion. The construction now put upon them would be truly surprising to the disputants of that day. Then it was urged by the objectors to the introduction of them, that it gave power to the Secretary over Congress; not power to Congress over the Secretary. [See Marshall's *Life of Washington*—pages 200 to 205.] They were defended and retained on the simple ground that they were intended merely to procure, directly and conveniently, information in detail from the best and most practical source. No one maintained or imagined that any change in the responsibility of the Secretary was to result from them. Gentlemen seem to be entirely unconscious of the effect of their hypothesis. If they are right, the responsibility of a Secretary of the Treasury for a wise administration of his Department, is nominal—it has no sanction. According to true theory, all the Executive officers of Government are responsible for the purity and wisdom of their conduct in the execution of the duties devolved upon them: to the Executive and to Congress for their purity—to the Executive alone for their wisdom. The hypothesis of Senators does not touch the responsibility of the Secretary of the Treasury through an impeachment; but in this he is in no respect different from the other Heads of Departments

—it destroys all responsibility for the wisdom of his acts. He reports to Congress, and proves his folly of improvidence. What remedy has Congress to apply? It can apply none. The two branches of the legislature may indeed decide that the removal of the officer would be proper. But this act must be performed by the Executive. We have here then a nominal responsibility to Congress, resting for its efficacy on the only constitutional sanction, the Executive power of removal.

The President of the United States and the late Secretary of the Treasury seem, sir, to have well understood their respective powers and obligations. When the question of the removal of the deposits was first agitated, Mr. Duane, with the frankness and firmness entitled to public respect, opposed the measure—it was one he could not sanction, but if resolved upon by the President, he would give way for another, who, coinciding with the President, could act without scruple or hesitation. After thorough investigation of the various arguments submitted to him, the President made his decision; and then, unfortunately, Mr. Duane declined fulfilling his voluntary engagement. The cause assigned was still more unfortunate. He conceived that he was insulted. This did not absolve him from his engagement; indeed it should have furnished a new motive for withdrawing. If treated courteously, his resignation should have been tendered out of respect to the President; if rudely, he should have thrown back upon the President his commission from respect to himself. Honorable Senators censure without measure the paper read to the Cabinet by the President. The exercise of ordinary charity would place the subject in a very different light from that thrown upon it here. Is it not apparent from the document itself, recollecting the preceding and attendant circumstances, that the sole object of the President was to shield Mr. Duane from the responsibility of the act which he seemed to dread. The President desired to take the whole, to reconcile his Secretary to the course resolved on. Entertaining a conscientious conviction that the course was fraught with injurious consequences to the public, the Secretary would have been faithless had he accepted the offered shelter. He was only wrong in shifting the ground upon which he stood. No honest Secretary will ever put his hand to a work which, in his judgment, will bring ruin or distress upon his country. No public officer is bound to suffer even uncourteous treatment from the Chief Magistrate; the only honorable step, in either case, is resignation of office, and submission of his conduct to the judgment of that great tribunal, public opinion, to which all must yield a cheerful or forced obedience. If little charity has been shown to the President, by what term shall I describe the treatment of the present Secretary of the Treasury, distinguished through a long life as a politician and as a man by his urbanity, and courtesy, and virtue. To call it

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harsh would not convey an adequate idea of its extreme injustice. An officer, who, previous to appointment to the Treasury Department, had urged upon the President, by fact and argument, the propriety of a removal of the deposits, is accused of being made the supple tool of the Executive for the performance of that act; is represented as standing by, the cold spectator of the struggles of his colleague in the contest, between his conscience and his attachment to the Chief Magistrate; as witnessing the contemptuous expulsion of that colleague from office, and then coolly entering the vacant place without sympathy or the smallest emotion for the man who preferred the loss of honors and emoluments to a betrayal of the interests of the people. The present Secretary left a place of honor for another not more honorable, a place of great responsibility for one of greater responsibility, a place uniting honor and profit, which the condition of a large family impelled him to regard, for an honorable place, the profits of which are insufficient to defray his necessarily increased expenditures. These circumstances alone should protect him from the slightest censure, but he stood committed to the President by his previously given advice, and when called upon to perform a task he had urged upon his colleague, he could not without dishonor, have disobeyed the call. He stood pledged to the Chief Magistrate and to the country, and he has not shrunk from his duty. He abides with unshaken confidence in the justice of his country, for all the consequences of the act he recommended to another and performed himself. And how is he represented here by the Senators from Kentucky (Mr. CLAY), and South Carolina (Mr. CALHOUN), as claiming all power to himself, and denying all power to Congress, as claiming to himself and the Executive an authoritative control over the whole treasure of the nation, and denying the right of Congress to interfere. This is a terrible position to an officer whose duties are prescribed by Congress, who is now dependent upon one branch of Congress for his continuance in an office which he is accused of having earned regardless of the feelings and honors of a colleague, by base subserviency to the mandates of a ruthless master.

Let us examine if in fact the Secretary claims this extensive, exclusive power. The Secretary holds that the charter of the bank is a contract between the Government of the United States and the stockholders—is this denied? The Secretary holds that by that contract the power to remove the deposits is expressly given to the Secretary of the Treasury, and to him alone. Is this denied? In the execution of that contract, the Secretary holds that he must be the agent to exercise that power, and that it cannot be exercised by any other agent without a violation of the obligation of the Government. Is this denied? The Secretary holds that the removal of the deposits by himself is in conformity with the contract, and

prostrates the only obstacle to the exertion of the power of Congress over the whole subject and all the interests connected with it. So far from claiming, therefore, power to the prejudice of Congress; so far from denying or attempting to resist their authority, he has loosened the bonds imposed by Congress upon their own hands. Supposing him to have been mistaken in his construction of the charter of the bank, admitting that Congress had the same power as the Secretary, or unlimited power over the deposits, there is now no pretext for accusing the Secretary of the Treasury of setting up claims to an authority above the power of Congress.

TUESDAY, February 4.

Removal of the Deposits—Motion to refer Mr. Taney's Report and Mr. Clay's second Resolution to the Committee on Finance.

The VICE PRESIDENT announced the Special Order, being the report of the Secretary of the Treasury on the removal of the deposits.

Mr. WEBSTER moved to refer the report of the Secretary of the Treasury, and the second resolution offered by the Senator from Kentucky, to the Committee on Finance.

In proposing this motion, Mr. WEBSTER said that the intention was to give the committee an opportunity to make a report on the financial part of the subject, and promised that the report should be brought in to-morrow as soon as the Senate were in session.

Some discussion took place on the point of order, whether this reference would not take the subject from before the Senate, and thus arrest the pending discussion; in which Mr. WEBSTER, Mr. CLAY, Mr. POINDEXTER, and Mr. SPRAGUE, took the negative of the question, and Mr. WRIGHT and Mr. KING took the affirmative view.

The motion was then agreed to.

WEDNESDAY, February 5.

Report on the Removal of the Deposits.

Mr. WEBSTER, from the Committee on Finance, to whom were referred the report of the Secretary of the Treasury on the removal of the deposits, and the second of the resolutions offered by the Senator from Kentucky, made a report, the reading of which being called for,

Mr. WEBSTER read the report, which occupied about an hour and a quarter, and concluded with recommending the adoption of the second resolution introduced by Mr. CLAY.

Mr. WEBSTER moved that the report of the committee be printed, and that the report of the Secretary of the Treasury, and the resolution which had been before the committee, with the other resolution of the Senator from Kentucky, be made the special order for to-day.

The motion was agreed to.

Mr. CHAMBERS moved that 6,000 additional copies of the report be printed.

The motion to print 6,000 extra copies was decided in the affirmative—ayes 27.

THURSDAY, February 6.

The Senate proceeded to the consideration of the Special Order, being

The Removal of the Deposits.

Mr. WILKINS said before he proceeded to those resolutions he would again deprecate the degree of warmth which had been displayed in connection with the subject. On each side tragic pictures had been drawn of the state of the country. They had been told that they were in the midst of a revolution—that the constitution was lying prostrate and bleeding before them—that the rights of the people had been trampled on, and that, though blood had not yet been drawn, a civil war was fast approaching. They were told that the gloom of '76 and '77 was hovering over them. In the foreground of the picture was depicted an ambitious President, grasping at despotic power, and fast ascending to the despotic throne, with the purse in one hand and the sword in the other, a public robber of the rights and treasure of the people. All this was in the foreground of the picture; while in the background, out of sight, were to be found the real principles of the question. If gentlemen judged of political by physical phenomena, there might be some reason to suppose that the evils spoken of would come upon them. If it were true that a political storm was always preceded by a calm, gentlemen were right in the views they took of this subject. Until the present debate commenced, long after the removal of the deposits, there was an entire calm. The confidence in government was unparalleled. If any change took place in that confidence it was only known by its increase.

A revolution "yet bloodless!" What did the honorable Senator from New Jersey mean? He (Mr. W.) would leave it to be settled by the people. He only wished to say that the picture which had been drawn was too highly colored. He thought that what had been said was uncalled for by any public act of the Government. When this subject was examined, and the very worst made of it, what did it amount to? Simply that no emergency had occurred in the country to justify the removal of the deposits. Take the report of the Committee on Finance, and every thing which had been said and done upon the subject, and what did it amount to? That the Secretary had the power of removing the public money, but that his act was not justified by expediency. The law was with the Secretary, but he had not been governed by expediency. A mere mistake as to the extent of the emergency. And out of this simple fact had grown all the alarms which had been spread through the country. Senators had assembled in peace and quietness. The 1st of December, 1833, came round without any complaint—without even a whisper from the people. Let them look back. Where did the panic come from? On what day did it first

make its appearance? On the day that the Senator from Kentucky made his address to the Senate. That voice, to which no man could listen without delight, was followed by this distress. He (Mr. W.) had travelled through his own State, and could say, that if the removal of the deposits had there effected any change, it was in favor of the man who made the removal. He (Mr. W.) had been going on, when he was interrupted, to say that he could have wished that a different course had been adopted by the bank. He could have wished that it had reasoned with the administration and Congress, and suspended, until the result was known, the oppressive measures which it had pursued. The bank, however, had thought proper to act differently. Although it was said to be the agent of Congress, it had never had one word with Congress. It had made war upon its principal, and had also waged war upon an innocent and unoffending community. Liberality or restriction was in its power, and it chose the latter. He (Mr. W.) only asked that the bank would allow Congress the power of arresting it in the particular course which it had adopted. A different course would have been prudent, both as it related to the country and to the stockholders.

He would say one word on the subject of the union of the purse and the sword in the person of the President. There could be no such thing as a union of the purse and the sword as long as the constitution should exist, as long as the people remained free and enlightened. If it were intended to corrupt the people—if corruption were to take hold of the people, such as the conduct of the bank pointed out, then, indeed, a union of the purse and the sword might be talked of. What was the power of the sword, which was so much spoken of? The President was indeed, by the constitution, the commander-in-chief of the militia of the country. But what was that more than a nominal power? What could he do? He could not raise men; he could not clothe them; he could not pay them; he could not appoint a single officer without the consent of Congress. It was Congress that did all this, and not the Executive. Even the very subsistence of the President himself depended upon the will of Congress. The President could not make war or peace; those acts must also emanate from Congress; and if the President overstepped his powers, he was liable to be impeached, to be tried by the Senate, and to be hurled from his office. With regard to the present action of the Executive, in removing the deposits, what power has the President assumed? In his cabinet paper of February, 1833, he cast from him all idea of uniting the purse and the Executive powers; he would have nothing to do with the deposits, but for strong facts respecting the conduct of the bank, which had recently come out. What did this prove? It proved that he had cast away from him the public purse, and that he

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disclaimed all idea of union between it and the sword.

Mr. President, I will now take up the two resolutions of the Senator from Kentucky, and proceed to examine them. The first resolution involves the question of political power; but it charges no corruption on the President; it relates to his peculiar views as to Executive duties, and a power supposed to be assumed by him, which is not authorized by the constitution and laws of the country, and the removal of one man from office on account of his opinions. If even corruption could be proved, it would not restore the former Secretary of the Treasury, who is now precluded by his successor. I took it that the right of removal was admitted; that the Senate were inclined to acquiesce in universal usage; the Senate may, with propriety, acquiesce in the right to remove, when, almost every day, they are confirming or rejecting nominations made by the President, to fill the places of those officers that have been so removed. The resolution itself admits the right of removal in the President, and it charges him with assuming a right over the Treasury of the United States. Why, then, do we persevere in contradicting these authorities? Why have our arguments gone on denying the right of removal? Sir, I am at a loss to know. This resolution consists of two parts; one relates to the removal, and the other to a restoration. But the restoration of the late Secretary is wholly out of the question. No one can look at his conduct and opinions, but he would justify the President from personal considerations, without reference to the public measure. The Secretary came into office, holding towards the President unjust and unjustifiable sentiments: that General Jackson was the most unfit man in the country for our Chief Magistrate; that he was the victim of passion and arbitrary feeling; that he was guided, not by his own judgment, but by a secret cabal; that he never carried out, and never intended to carry out, any political opinion which he had professed. If all this was so, how was it possible to get along with such a Secretary, who was his adviser and counsellor, appointed to aid him, and at the same time held such secret opinions, and had no confidence in the man, or in his political opinions, and deemed them subject to corruption; how was it possible for them to pull together? But this is not all: the Secretary tells the President that the measure was insisted on, not from public considerations, but from vindictive and arbitrary motives; from no good principle; but from a vile, vindictive, and arbitrary feeling. These, sir, are his very epithets. Sir, how was it possible to get along? How was it possible for the President to proceed with a Secretary who, from his feelings and sentiments, could not co-operate with him? But even this is not all; when things became serious between the President and Secretary, the latter promised to resign, but he afterwards refused, for two reasons: because he had made a promise which

he never expected to be called upon to fulfil, and in the second place, he determined to remain in office, that he might fix on the President the charge of interfering with an officer of Congress; and he retained his office against the wishes of the President, for no other object but for fixing this charge upon him. Sir, he ought to have been removed the very next moment; he was in the Cabinet, and the President was right in removing him. His office was retained in violation of his promise, and with the purpose of overthrowing the President.

The third section of the second article of the constitution provided that the President should take care that the laws were properly executed. In reference to the execution of the civil law, indeed, the constitution was silent. What then was the meaning of the constitutional injunction? What was meant by the word care? Surely the power was not suspended until some open rebellion had broken out against the constitution. Surely this power was never absent. Surely in all cases it was a part of his duty to attend to the revenue and to the finances. Had he not a right to call upon the Secretary of the Treasury to inquire how the collecting officers were doing their duty? This general care was indispensable, and connected with the oath of his own office to defend, protect, and watch over the constitution. [Mr. W. here referred, for corroboration, to Kent's Commentaries.]

In the exercise of the authority which the President assumed, he interfered with no legislative action. The laws had passed from under the hands of the legislature and became his care. The law had given power to the Secretary to remove the deposits, but was silent as to the time and manner. And was it not the duty of the President to take care and watch for the fit time, and when he saw it, suggest it to the Secretary?

Suppose the second resolution of the honorable Senator from Kentucky ordered a restoration of the deposits, and, after the resolution had been adopted by Congress, the Secretary of the Treasury refused to comply with the requisition, what was to be done with him? He might be impeached; but would it be wise to wait the result of the trial? The country would say, remove this refractory officer. Suppose it had been the universal opinion that the deposits ought to have been removed, and that universal censure would otherwise attend the administration had it refused to remove them according to the general wish, would it be justifiable to remove him? Take the Post Office, for instance: had not all the Presidents walked into that Department, and asked how the Postmaster exercised the power of appointment? And was it not well known that a Postmaster was removed because he had appointed a Postmaster in one of our large cities? The President was justified, morally and politically speaking, in removing officers and in appointing them. Mr. Taney was not appointed by the President because of his pliability of opinion.

SENATE.]

Distress Memorial.

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To the high personal and political character of Mr. Taney, there could be no objections. But it was well known that a conviction of the necessity of the removal of the deposits was no sudden opinion of Mr. Taney's, adopted by him for the purpose of obtaining the situation which he now holds. As early as March last, he stated his opinion that the deposits ought to be removed, in order to give the bank time to wind up its concerns. In looking around, the President had a right to select an officer who would honestly and conscientiously discharge his duty. It was perfectly right in the President to select a man who coincided in opinion with himself. That was no assumption of power on the part of the President, which did not belong to him; and he (Mr. W.) would like to know when an officer was selected by the President, except on account of his political opinions. The selection, then, was no evidence of corruption on the part of the selector or on the part of the person selected.

MONDAY, February 10.

Distress Memorials.

[Mr. SOUTHWARD presented the proceedings of two large meetings in the counties of Morris and Burlington, complaining of the distress and alarm occasioned by the removal of the deposits, and praying their restoration, and spoke at large in support of their object.]

TUESDAY, February 11.

Public Distress.

Mr. McKean presented the memorial of a meeting of the citizens of the city and county of Philadelphia, (brought on by a committee of gentlemen appointed by the meeting,) complaining of their great pecuniary embarrassments, and the disordered state of the currency of the country, which they attribute to the removal of the public deposits from the Bank of the United States, and praying for their immediate restoration to that institution.

Mr. McK., on presenting the memorial, said, that a committee composed of gentlemen of the first respectability and intelligence, from Philadelphia, now in attendance at the seat of Government, had a few moments since charged him with a memorial to be presented to the Senate, signed by more than ten thousand citizens of that vicinity, deeply complaining of pecuniary distress and derangement of the currency, which they attributed to the recent removal of the public deposits from the Bank of the United States, and praying Congress to interfere for their relief. I have, said Mr. McK., been honored with an interview from a portion of this committee, and have listened to their statements; and however I may differ from them as to the true cause of present embarrass-

ments, and the proper mode of redress, I can no longer doubt the reality and extent of suffering in that quarter. Mr. McK. then moved that the memorial, together with a letter which he had received from the committee, be read by the Secretary, and that both be referred to the Committee on Finance, and printed.

Mr. OLAY hoped the motion of the gentleman from Pennsylvania comprehended not only the printing of the memorial, together with the letter of the committee, but the names of the memorialists.

Mr. McKean replied that he had not intended to move for the printing of the names, but he would accept the suggestion of the gentleman from Kentucky, as a modification of his motion.

Distress Memorial.

Mr. MANGUM presented the resolutions and proceedings of a meeting of a large and respectable body of the citizens of the county of Burke, in the State of North Carolina, on the subject of the pecuniary embarrassments and deranged state of the currency of the country, which they attribute to the removal of the public deposits from the Bank of the United States, praying for some mode of relief, and recommending the immediate restoration of the deposits to that institution.

It was perhaps proper, Mr. M. said, on presenting these proceedings and resolutions, to apprise the Senate that they spoke the voice of the immediate friends of the Chief Magistrate of the United States. In no part of the southern country was the phalanx which gave so strong an impulse to the popularity of the Executive, so unbroken, or so firm in its attachment, as was to be found in the district from whence these proceedings came; and yet he learned that in that country the sense of its population was universal in condemnation of those measures which had called forth the sense of the meeting. It was stated in these resolutions, that the money of the United States Bank was entirely driven out of circulation in that section of the country, either in consequence of its being hoarded by those who, having no immediate use for it, deemed it the safest money to keep, or by being absorbed for purposes of exchange, while that whole country was flooded with the trash of this district: even the smallest debts could not be paid but in coin. Sir, (said Mr. M.) these resolutions speak the grave, calm, and deliberate tone of the best friends of the Executive, who emphatically say that they cannot submit to be ruined, to gratify the whims or caprices of any man.

Mr. Brown, of North Carolina, rose and said, that, although he had not been apprised, but a few minutes before, that this preamble and resolutions were to be presented to the Senate, he felt it to be his imperative duty, as one of the Representatives of the State of North Carolina on this floor, in consequence of the tone of this preamble and these resolutions, and of the re-

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Portsmouth (N. H.) Memorial.

[SENATE.]

marks of his colleague, to take the present occasion to explain some of his views in reference to this subject. He was one of those who, in his representative capacity, felt every disposition to respect public opinion, whenever that opinion could be properly ascertained. Whenever he should be brought to feel a settled conviction that the opinion of the people of North Carolina was in opposition to the course which he had felt it to be his duty to take on great political measures, and whenever that opinion should be fairly presented to him, he would be either prepared to obey it, or to relinquish the seat which he had the honor to hold on this floor. If he did not adopt one of these alternatives, he should consider that he was acting in opposition to the sacred principles of our republican institutions, and following the practice of those who, while they were issuing denunciations of Executive usurpations of power, were themselves acting in opposition to the expression of opinion of their own constituents; and were thus violating the great principles of republican Government. But he could not consent to take the opinion of these petitioners, respectable as he admitted them to be, as the sense of the people of North Carolina. It was true that some of the signers of this paper had been supporters of the present Executive, but it was equally true that others of them were his decided opponents. From the tone of the resolutions, and the character of the newspapers selected for their publication, he inferred, indeed, that the greater number had been always in opposition to General Jackson. In regard to the great question which was agitating the country from one end of it to the other, his own opinion had been firmly and deliberately made up. From a view of all the circumstances he was satisfied that the agitation and embarrassment which prevailed resulted from the conduct of the bank itself, and the conduct of that political party, the existence of which seemed to depend on that of the bank.

WEDNESDAY, February 12.

Death of Mr. Bouldin.

A message was received from the House of Representatives, announcing the death of the Honorable THOMAS TYLER BOULDIN, late a Representative from the State of Virginia—and that his funeral would take place to-morrow at half-past 11 o'clock.

Mr. RIVES rose and said—

Mr. President: The Senate were yesterday apprised by the Senator from South Carolina, (Mr. PRESTON,) in the momentary absence of my colleague and myself, of the melancholy event which has just been communicated to us by the House of Representatives, and which has deprived the State of Virginia of one of her most distinguished Representatives in the legislature of the Union. The event, sir, in all its circumstances and associations, was one of the

most solemn and affecting character—well calculated to admonish us, in the midst of our busy cares here, “what shadows we are, and what shadows we pursue!” I now rise, Mr. President, to ask, at the hands of the Senate, the accustomed marks of respect to the memory of our deceased associate, and which are so eminently due to the high character he maintained in all the relations both of public and of private life. I beg leave, therefore, to offer for the adoption of the Senate the following resolution:

Resolved, That the Senate will attend the funeral of the Honorable THOMAS TYLER BOULDIN, late a member of the House of Representatives from the State of Virginia, at the hour of 11 o'clock, A. M., to-morrow: and, as a testimony of respect for the memory of the deceased, they will go into mourning, by wearing crape round the left arm for thirty days.

This resolution having been unanimously agreed to—

On motion of Mr. RIVES,

Ordered, That when the Senate adjourn, it adjourn to meet at half-past ten o'clock, A. M., for the purpose of joining the House of Representatives in attending the obsequies of the late Honorable THOMAS T. BOULDIN.

On motion of Mr. RIVES,
The Senate then adjourned.

MONDAY, February 17.

Portsmouth (N. H.) Memorial.

Mr. BELL presented the petition of a number of the citizens of Portsmouth, New Hampshire, on the subject of the pecuniary embarrassments and distress prevailing in that section of the Union, which the memorialists attribute to the removal of the public deposits from the Bank of the United States, and praying that they may be restored to that institution, or that Congress would make such other legislative provisions for the relief of the country, as its wisdom might devise. Mr. B. said, that, while up, it might be proper for him to observe, that the signers of this memorial were men of integrity, character, and respectability,—merchants, ship owners, and men of business, whose names carried as much weight as those of any body of men in the country.

He moved that the memorial be read, referred to the Committee on Finance, and printed, with names attached.

Mr. HILL had not had the privilege of a sight of the original memorial from Portsmouth; but a member of the House, who had a copy of it, had kindly shown that to him. Of two hundred and fifty petitioners, so far as can be ascertained by gentlemen personally acquainted, there is not a solitary friend of the administration upon it. In relation to this memorial, he would ask leave to read extracts from a letter he had recently received from that town:

"On Saturday I perceived, by a notice stuck up at the brick market, that the federalists of this town were about to memorialize Congress upon the subject of the public deposits. Although this invitation was given to all, without distinction of party, yet I feel persuaded that you will not find the name of a single friend of the administration. If they have told you that there is any unusual pressure in this town, it is not true. There is no man here that feels embarrassed for the want of money, save those who have unwarrantably extended their business upon a borrowed capital. Every thing here commands a high price. The agriculturists feel no pressure. They are reaping richly of the blessings of a wise and judicious administration, and of the bounties of a kind Providence. The merchants here might do the same, if it were not for the corrupt and corrupting, and shameful management of the banks. I say banks, because the most of the local banks in this town sympathize strongly in politics with Mr. Biddle's bank and its branches.

"I will venture to assert, and pledge my veracity upon the assertion, that the branch bank in this place has in her vaults at least fifty thousand dollars in specie, and at least thirty thousand dollars in local bills. If the fact be so, it would enable that bank alone to discount over a hundred thousand dollars. How much has been discounted at that bank I have not the means of knowing.

"This bank, also, refuses to send home the bills of the Commercial Bank, although the cashier has been repeatedly requested so to do, and receive the specie for them."

Mr. H. continued: Sir, the number of petitioners attached to the Portsmouth memorial, is less than one-half the number of votes that have sometimes been cast by the opposition party in that town. For some time past, it will be seen that the discount of the Portsmouth branch has averaged about \$400,000. On the first of January it was \$395,083—it was reduced in that month, when it was necessary to prepare for a petition, to \$362,878—making a contraction of more than a thousand dollars in a day. The Portsmouth petitioners probably owe the bank at least three-fourths of the whole debt. There are but few debts due out of that town; and of the bank's debtors the names of some of these few are on the petition. Sir, said Mr. H., very few persons at Portsmouth, or elsewhere in New Hampshire, would think of moving in favor of the bank, except those who act in this matter from party motives; for the bank has been a blighting curse to the men of business of that place. There are, sir, on this petition, several names of persons who failed in business four and five years ago, and whose names are on bad paper at the branch bank, five, ten, twenty, and up to sixty thousand dollars each. There are also other names on the paper of respectable gentlemen, men of reputed wealth, who are reported to have permanent accommodations at the bank, of from 5,000 to 20,000 dollars, which is employed in navigation or manufacturing establishments.

TUESDAY, February 18.

Virginia Memorial.

Mr. TYLER rose to present a memorial from the city of Richmond, signed by nearly nine hundred of the citizens, and certain resolutions adopted by the people of Franklin county, in the State of Virginia. In regard to the memorial, he would say, that it would be borne in mind by the Senate, that he had rarely, very rarely, been called upon, since he had been a member of the Senate, to perform a duty similar to that which he was then in the act of performing. The people of the State which he represented, in part, on this floor, were content, under ordinary circumstances, to leave the expression of their sentiments to be made by those who represented them and their interests in this House and the other; and their departure from that course, on the present occasion, bore to Senators the strongest possible evidence of the great agitation of the public mind. The memorial was signed by persons of all employments and pursuits, and presented an array of names which would compare, for intelligence and the attributes of high moral character, with any similar number from any city or town in the Union. They remonstrated against the late proceedings of the President and Secretary of the Treasury, as involving high assumptions of power. Reared, from early infancy, in the belief that, in order to preserve liberty from overthrow, it was necessary to keep the three departments of the Government separate and distinct, they regard with alarm the late measures of the President, as drawing within the vortex of Executive power, judicial and legislative functions, and in the forfeiture pronounced of a most valuable franchise, or privilege, of that corporation, which had been solemnly ratified to it by charter stipulation, and for which it had paid, they recognize a breach of public faith and violation of individual rights in the persons of the corporations. Mr. T. said, that while he concurred with the memorialists most fully in their views, he should abstain from going into their consideration now, as he proposed, should his health permit and the Senate so please, to express his opinions more at large upon them after the honorable Senator from Pennsylvania (Mr. WILKINS) should finish the speech which he had commenced. The memorialists also represented that a deep gloom rested on their city and hung over the country; that commercial enterprise and manufacturing industry, deprived of their proper aliment, were stagnated; that all the pursuits of life were paralyzed; that, in consequence thereof, the great staples of production, tobacco and flour, had each fallen twenty per cent. within the last sixty days; that exchanges had fallen from eight to thirteen per cent. in the same period, and as an evidence that no accidental circumstance of trade had produced this state of things, but that all depended upon the condition of the money market, that every

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day and every hour brought with it its fluctuations. The memorialists saw no glimmering of light through the gloom, but anticipated a darker night yet to come than that which enshrouded them. They looked to Congress for relief. They ask not, said Mr. T., a renewal of the bank charter. No, sir, they implore that a stable system may be introduced. Not one resting on Executive will—not a Treasury resting on agents appointed by the Executive, liable to be displaced at his pleasure—holding their existence but at the breath of his nostrils—fleeting and ephemeral as whim, or caprice, or passion, or political motives might make them: but resting on law—permanent, enduring law—law not to be changed but for high reasons of state policy, approved by the wisdom, and sanctioned by the experience of Congress. To a measure of that character do they look for the restoration of public confidence; and to such measure alone can they look, or can the country look.

THURSDAY, February 20.

Funeral of William Wirt, Esq., late Attorney-General of the United States.

The Journal having been read—

Mr. CHAMBERS rose, and said he had been apprised that the House of Representatives had just adjourned for the purpose of attending the funeral of the late Mr. WIRT; and as many of the Senators not only felt it an imperative duty to join in paying the last tribute of respect to the distinguished individual referred to, but were impelled to do so by a deep sense of feeling, the Senate would not probably be full enough to attend to business. He was not aware that it would be necessary for him to make any motion for the postponement of the resolutions or proceedings that might be expected to come up; and he would, therefore, simply content himself with a motion to adjourn. Whereupon, the Senate adjourned.

FRIDAY, February 21.

Public Distress.

Mr. SOUTHARD said he had been charged with three memorials from different parts of the State of New Jersey, which he had been requested to present to the Senate. The first came to him from a committee appointed by the citizens of Trenton, and its vicinity, and was signed by 423 names of persons, many of whom were among the most respectable in the State. Two of the committee were well known as having been formerly among the most ardent and active supporters of the present administration, as were also some others on the list. The letter which accompanies the memorial states that the latter expresses the views of the great body of farmers, merchants, mechanics, and working men of that portion of the State, without distinction of party.

The second memorial came from the township of Howell, a part of the county of Monmouth, which is now represented in the State legislature by members who are decided in their support of the present administration; it is signed by about three hundred individuals, of whose characters, standing, and respectability, he was also prepared to speak.

The third memorial was signed by 2,785 of the inhabitants and voters of the county of Burlington, in a different part of the State. It would be well recollected that, some time since, on the occasion of presenting the proceedings of a county meeting, held in the same county, he had ventured to express his opinion that those proceedings contained the sense of the county of Burlington on this great and exciting question. For this, he had been accused, in the very ears of power itself, of deliberate falsehood. Sir, said he, here are the names of a majority of the voters of that county, which is represented by four friends of the administration out of six representatives in the State legislature, three of whom voted for the resolutions instructing their Senators and Representatives in Congress to resist any effort to restore the deposits to the United States Bank. In that county, 4,200 was the highest number of votes which he recollected to have been given at any election; and at the last election, only about 8,500 votes were given. Here, in this memorial, will be found 2,785 names of voters of that county. More than 600 majority is the largest vote which he recollected, and about 1,000 majority, upon such a vote as that by which the members who instructed him held their seats. Was he criminal, then, in the representation which he had before made? Shall the people of that county, and the world, be told that he was guilty of deliberate falsehood in his representation of their opinions? And this, too, by the very mouth-piece of the Executive whose illegal conduct they disapprove? Is calumnious misrepresentation the fit and appropriate offering, at this day, to the ears of power, by its agents and flatterers?—the selected means, by which light is to be excluded from the only quarter in which relief, to a distressed community, can be promptly afforded?

Mr. S. moved that the memorials be read, printed, and referred to the Committee on Finance.

Maine Petitions.

Mr. SPRAGUE presented the memorial of 646 citizens of the city of Portland, Maine, in relation to the general distress of the country, and the deranged state of the currency.

Mr. S. said that the memorial sets forth, that the signers, and the community in which they live, are now suffering under great and unexampled pecuniary distress. That there is at present an almost entire prostration of business, and that their prospects for the future, are still more gloomy; and they appeal to the national legislature to afford them some relief from their

present suffering, and to avert the threatened danger of still greater injury. They do not undertake to point out in what that relief shall consist, or the mode in which it shall be obtained; but leave it, with confidence, to the wisdom and enlightened patriotism of Congress. They come here to the legislature—they do not go to the Executive—because they do not believe that it belongs to the Executive department of this Government to produce and sustain a sound currency, any more than that it legitimately appertains to it to produce a degraded and unsound currency.

This memorial is signed by all classes of citizens—merchants, mechanics, artisans, and laborers—of all parties; and from personal acquaintance with many of the memorialists, I bear willing and cheerful and decided testimony to their high respectability—to the entire confidence which ought to be reposed in all their statements. And, from the knowledge that I have of those who have transmitted the memorial, and given me their certificate as to the high respectability of those with whom I am personally unacquainted, I am confident in the belief, that all the memorialists are highly respectable.

The petitions having been read—

Mr. SHEPLEY rose and said, that very soon after he was called to take a seat in this chamber, he had made a few remarks on the subject of the public distress. He had then borne testimony, that, when he came into the Senate, he was unacquainted with any extraordinary distress then existing in the money market. He had not had occasion to believe, at that day, that he was mistaken in the view which he had presented. He now understood, that, when Congress met, there was no greater distress in the money market in his section of the country, than frequently existed under ordinary circumstances. He wished that it was in his power to believe that the same state of things now existed; but he was now satisfied that it was far otherwise, and that there existed in the money market a distress unparalleled, pervading all classes of the community. It was never his desire to state any thing more than the truth. He had waited during the last eighty days, to understand wherefore it was that, day after day, they were to be told that there was an existing distress, and that this distress was increasing. He thought that he had now obtained so much knowledge, as enabled him to understand the subject. He held in his hand a statement of the condition of the United States Bank on the 1st of this month, which came from a friendly hand, and which he would now beg permission to read to the Senate.

[Here Mr. S. read the monthly statement of the condition of the bank.]

He then went on to say, that, in relation to the deposits in the United States Bank, every experienced banker, as well as every man of good sense, knew that a bank soon became experimentally acquainted with the average of its

deposits; and that it was not necessary to retain but a limited amount of specie in the vaults, with a view to meet any rare and extraordinary occasion, because if one dollar was taken out, another was deposited; and thus, what was removed by one depositor, was replaced by another. In this view, he arrived at the conclusion, that it was not necessary for the United States Bank to retain specie to an amount beyond two or three millions, whereas it had now twenty-two millions to meet and fifteen millions to meet it. He had understood that the President of the United States Bank had, on more than one occasion, complained of the accumulation of specie; had at one time transported a quantity to Europe, because there was a surplus in the vaults; and had given it as his opinion, that seven millions of specie was sufficient to meet the greatest circulation of paper. He believed that the president of the bank was correct in this view, and that one dollar in specie was sufficient for an issue of five dollars in paper.

He inferred from this view that it was in the power of the bank, on the 1st of February, to circulate twenty millions more of its bills than it had circulated, and without any danger to itself, and the circulation of ten millions would have greatly relieved the country. The bank had sometimes expressed a desire to relieve the country, but what now was its conduct? It had curtailed, instead of extending its accommodations; and what was to be expected in the future? He held in his hand a paper, which spoke the sentiments of the bank to the people. He wished it to be well understood what the people had to expect from this quarter. A few days since, a communication appeared in a newspaper, asking of the United States Bank to extend its loans to the community. There was now another paragraph in the same newspaper, speaking in a somewhat singular tone, and as if by authority, and adopting such language as no one could use who was not in a situation of some power. If the writer had not the power to carry his suggestions into effect, he must have been a very presumptuous man to use such language. He referred to an article in the National Intelligencer, in the form of a communication, which he would now read.

[Here Mr. S. read the article referred to.]

Mr. S. continued. What did this paper say? It was directed to public opinion, and declared what the bank would do; and that was nothing, until the State banks should be prohibited by their stockholders from receiving the public deposits; thus causing them to be restored to the Bank of the United States. Let this be done, and every thing will go well; distress and anguish will no longer exist. All the evils so loudly complained of will at once be remedied, and confidence and security again prevail. But if the stockholders of the State banks will not move, so as to prohibit their institution from receiving the deposits, why, then,

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things must grow worse and worse, the distresses of the country become deeper and deeper, until it ends in absolute ruin. He knew not who were authorized to use the language of this paper, but he believed they spoke from some authority; and that, if they did so speak, it was one which sought to control the councils as well as the finances of the nation. They say that not only deep distress is felt throughout the land, but that, unless the deposits are restored to the Bank of the United States, it will become still deeper. Much as he deplored the existence of distress of any kind, he had rather bear any that might arise from pecuniary causes, than submit to a declaration of the kind given in the paper he had referred to; and he well knew that the people of his State would endure the severest privations, no matter from what causes they might arise, sooner than be dictated to by an authority coming from a moneyed institution.

SATURDAY, February 22.

Removal of the Deposits—Resolutions and Instructions of the Virginia General Assembly—Resignation of Senator Rives.

Mr. TYLER presented resolutions recently adopted by the two Houses of Assembly of the State of Virginia, expressive of their opinions and views relative to the conduct of the Executive with regard to the Bank of the United States and the deposits of the public revenue. Mr. T. proposed to abstain, at this time, from making any remarks on the subjects embraced in the resolutions, other than to say, that, concurring as he did most fully in the views expressed by the legislature of his State, he should use all the means in his power to carry them in effect. Mr. T. should, at another time more convenient to the Senate, make such remarks as the importance of the subject required. For the present he should merely move for the printing of the resolutions, and their reference to the Committee on Finance.

Mr. RIVES rose and addressed the Chair as follows:

Mr. President: The Senate will indulge me, I hope, standing in the position I do, with a few remarks on the subject of the resolutions just read. It is very far from my intention to attempt to impugn, in any manner, the force of those resolutions, or to derogate, in the slightest degree, from the high respect to which they are entitled here and elsewhere. On the contrary, I recognize them as the legitimate expression of the opinion of my State, conveyed through the only authentic organ known to her constitution and laws.

The Senate will have perceived, from the reading of the resolutions, that it is my misfortune to entertain, and to have expressed, on the grave questions now occupying the public mind, opinions very different from those asserted by the resolutions. Notwithstanding this differ-

ence of opinion, I should feel it my duty, as one of the representatives of Virginia on this floor, to conform to the views expressed by her legislature, if, in the circumstances in which I am placed, I could do so without dishonor. I hold it, sir, to be a vital principle of our political system, one indispensable to the preservation of our institutions, that the representative, whether a member of this or the other House, is bound to conform to the opinions and wishes of his constituents, authentically expressed; or, if he be unable to do so, from overruling and imperious considerations, operating upon his conscience or honor, to surrender his trust into the hands of those from whom he derived it, that they may select an agent who can better carry their views into effect.

On all occasions involving questions of expediency only, it is, I conceive, the bounden duty of the representative to conform explicitly to the instructions of the constituent body, where those instructions are to be carried into execution by a legislative act, which, as a mandate of the public will, prescribes and directs what shall be done for the public good. But where the instructions contemplate a declaration of principles or opinions, which are contrary to the sincere and honest convictions of the representative, as there is no means of forcing the assent of the understanding to abstract propositions, the only course left to him is, by the surrender of his commission, to put it in the power of his constituents to confer it on another whose opinions correspond with their own.

To apply these principles to my own case, I do not hesitate to say, that, if the instructions of the legislature of my State had required me specifically to vote for a law, or other legislative act, providing for the restoration of the public deposits to the Bank of the United States, however highly inexpedient I deem such a measure to be, I should nevertheless have felt it my duty to give the vote required. Such, it will be recollected, was the precise demand of the memorial of the citizens of Richmond, presented a few days ago by my honorable colleague, and which concluded by asking, that Congress "would provide by law for the immediate restoration of the public moneys to the Bank of the United States." But, sir, this is not the shape in which the question is presented to me, by the resolutions of the General Assembly of my State, or by the proceedings pending in this body. Those resolutions instruct the Senators of Virginia, in general terms, "to use their best exertions to procure the adoption by Congress of proper measures for restoring the public moneys to the Bank of the United States." Now, sir, I am bound to inquire, what are those proper measures, in the contemplation of the legislature of Virginia.

We all know, that the only measures proposed or contemplated, in this body, are the two declaratory resolutions offered by the Senator of Kentucky; the first affirming that the

conduct of the President, with reference to the removal of the public deposits, was a dangerous and unconstitutional assumption of power; the second, declaring the reasons assigned by the Secretary of the Treasury for that removal, to be unsatisfactory and insufficient. When the latter of these resolutions, together with the report of the Secretary of the Treasury, was referred some days ago to the Committee on Finance, that committee did not report a bill or joint resolution for the restoration of the deposits, but simply a recommendation that the Senate should adopt the declaratory resolution of the Senator from Kentucky. In short, it is now avowed and understood, on all hands, that all that is deemed necessary, or will be proposed here, to effect the restoration of the public moneys to the Bank of the United States, is a mere declaration, by Congress, of the insufficiency of the reasons assigned for their removal.

The only measures, then, on which I shall be called to carry into effect the instructions of the legislature of my State are, the declaratory resolutions moved by the Senator from Kentucky, and now depending before the Senate. That these resolutions are, in the estimation of the General Assembly of Virginia, proper measures—that the opinions and principles declared by them are believed by the General Assembly to be correct and well founded—it would be unpardonable blindness to the language and tenor of their instructions not to see. At the same time, it is well known to the Senate that, on each of the propositions declared in these resolutions, I had (and I will take leave to add, after the most careful and anxious investigation) come to opposite conclusions, which I had earnestly asserted and maintained on this floor. I am, therefore, placed, by the instructions of the legislature of my State, in this dilemma—either to vote for the declaratory resolutions of the Senator from Kentucky, and thereby express opinions which I not only do not entertain, but the reverse of which I have sincerely and earnestly maintained on this floor; or, by voting against them, to oppose the only measures which are likely to come before this body, having in view the restoration of the public deposits to the Bank of the United States, and thus appear in the attitude of disregarding and thwarting the declared wishes of the General Assembly of Virginia. I am sure I but respond to the honorable feelings of all who hear me, in saying that the first branch of the alternative is impossible, while the latter is no less forbidden by my principles, and a proper sense of duty to the constituted authorities of my State. The only course left to me, then, is one which the Senate can be at no loss to anticipate.

Before I close the few remarks with which I have felt myself called on to trouble the Senate, I beg leave to say, that, while I recognize implicitly the resolutions just read as the legitimate and constitutional expression of the opinion of my State, I wish not to be understood as saying that they express the real public opinion

of the State—that of the people. On the contrary, my firm and clear conviction is, that the sentiments of the people, in the present instance, are not in unison with the proceedings of the legislative authority. The manifestations of popular sentiment already commencing in various quarters of the State—the principles and opinions heretofore steadily cherished by Virginia—multiplied communications received from the most respectable sources—and my own knowledge, I may be permitted to add, of a people with whom I have been connected, in the relations of public service, for now near twenty years—assure me that they are not; and the revolution of a few months will, I confidently believe, render the fact manifest to all the world. But, in the regulation of my official conduct here, I am not permitted to look beyond the constitutional expression of the opinion of the State, by its regular and proper organ. If a Senator were allowed to set up against the public opinion of his State, as officially and solemnly declared by her legislature, a hypothetical public opinion, which may or may not be that of the people of the State, it is obvious that a door would be opened for the total evasion of all effective responsibility of this body to public opinion. It is on the legislatures of the States that the constitution has devolved the choice of members of this body, and the same legislatures must be the interpreters of the public opinion of their respective States to the Senators chosen by them, whenever an occasion shall arise which may call for a solemn manifestation of that opinion.

This is indeed the only practicable mode of bringing the opinion of the sovereign community, represented in this body, to act, with authoritative influence, on its proceedings; and when it is considered that the Senate is, by the greater permanency of its official tenure, farther removed from the salutary controls of the representative system than any other branch of the Government, all will see the necessity of keeping open a clear and designated channel by which public opinion may promptly reach it, in an authoritative form, and be made effectual on its deliberations. It is thus essential to the practical supremacy of the popular will itself, that the State legislatures should be recognized as the authentic and constitutional exponents of the popular opinion of the respective States, in all relations with this body. If, in any instance, the legislatures of the States shall mistake the opinions of the people, it is, as I conceive, for the people themselves, and not for us, to correct the mistake.

These, Mr. President, are, very briefly, the opinions I entertain on the delicate questions presented for my consideration by the instructions of the legislature of my State, just read; and the only alternative they leave me, in the circumstances in which I am placed, is to surrender the trust with which I have been honored, as a member of this body, into the hands of those from whom I received it. I know

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well, Mr. President, and I feel, how much of honor and of satisfaction I give up in abandoning my seat on this floor. I abandon what I have ever regarded the highest honor of my public life—an honor than which none higher, in my opinion, can be presented to the ambition of an American citizen. I sacrifice social and kindly relations with many members of this body—I would fain hope with all—which have been the source of the highest satisfaction to me here, and the remembrance of which I shall cherish with sincere pleasure in the retirement whither I go. I know and feel the weight of these sacrifices, but, great as they are, I make them without a sigh, as the most emphatic homage I can render to a principle I believe vital to the republican system, and indispensable to the safe and salutary action of our political institutions.

The resolutions were then referred to the Committee on Finance, and ordered to be printed.

MONDAY, February 24.

Public Distress.

Mr. SMITH said that he had had committed to his care, with a view of their being presented to the Senate, sundry petitions and resolutions. Two of these petitions were from the town of New Haven, one signed by about 700 citizens of that place. This memorial described the sufferings and the distress under which the petitioners labored, but without going into further detail. Some delay had occurred in the reception of this petition. Finally, another meeting of the citizens was called, and took place at the City Hall, at which sundry resolutions were passed, describing the severity of the public sufferings, ascribing these sufferings to the removal of the deposits, and expressing the opinion of the meeting that the Bank of the United States ought to be rechartered. To this last petition were attached the signatures of about 900 citizens of New Haven.

Another of these petitions was from the city of Hartford, in Connecticut, and was signed by about 300 citizens of that place. He held, also, in his hand, resolutions adopted by the Hartford Bank, in which the directors of that institution ascribed the sufferings under which the community were laboring, to the removal of the public deposits; and expressed it as their grave opinion, that the Bank of the United States should be rechartered, with modifications.

From the Phoenix Bank he had received resolutions similar in their purport. The Connecticut River Bank, established in the same place, had transmitted to him resolutions of the like character. And he had received resolutions, looking to the same object, from the Fire Insurance Company of Hartford, a corporation of great business and high respectability.

TUESDAY, February 25.

New Jersey Resolutions.

Mr. FRELINGHUYSEN presented the resolutions adopted at a county meeting of the citizens of Cumberland county, in the State of New Jersey, and the memorial of the same meeting, containing eight hundred and ten signatures on the subject of the distressed condition and deranged currency of the country, which they ascribe to the removal of the public deposits from the Bank of the United States, and praying for their restoration. Mr. F. spoke at large in favor of the object of the petitioners.

WEDNESDAY, February 26.

Public Distress.

Mr. CHAMBERS said he had been charged by a committee of gentlemen, deputed for that purpose, to present the memorial of sundry merchants, mechanics, laborers, and others, of the city of Baltimore, on the subject of the embarrassments of the money market, which the memorialists said had been occasioned by the course pursued by the Bank of the United States, and intended for the purpose of forcing a renewal of its charter. The memorialists, Mr. C. said, express their entire confidence in the Executive, declare that the restoration of the public deposits to the bank would be highly injurious to the country, and pray that they may not be restored. The committee, with whom he was personally acquainted, Mr. C. said, were highly respectable, and, from the character given of the signers of the memorial, he was confident they were equally so. The committee stated that the number of signers to the memorial was 8,558, and he had no doubt of the correctness of the statement. He moved that the memorial be read, printed, and referred to the Committee on Finance. He also asked that the names appended to the memorial be printed, as it was a duplicate of one intended to be presented to the House of Representatives, but, from the press of business in that House, had not yet been done.

The motion of Mr. CHAMBERS was carried.

Pennsylvania Memorials.

Mr. McKEAN said he held a memorial signed by 1,858 inhabitants of Berks county, Pa., reiterating the daily lamentation of pecuniary distress, and remonstrating against the recent action of the Government in removing the public deposits from the United States Bank. This memorial, and the accompanying letter, Mr. M. said he was requested to lay before the Senate, by a highly respectable deputation who had visited the seat of Government for that purpose, and who instructed and especially requested him to state that the memorialists are without distinction of political parties, and, indeed, he said, it could hardly be otherwise, as, he believed, the election returns would show, that scarcely more than half the number that had

signed the memorial were, at any time, opposed to General Jackson, in Berks county. He knew a number who were the fast friends of General Jackson, among which he recognized the name of his friend William Addams, who was associated with him (Mr. M.) on the Jackson electoral ticket in 1832. His (Mr. M.'s) objections to the United States Bank remained unchanged, and had never been disguised; but, it was due to truth, and to this respectable portion of his constituents, to make these statements.

He also had in charge the proceedings of a meeting of the mechanics and working men of the Northern Liberties, in the county of Philadelphia, in favor of the bank and a restoration of the deposits; and a memorial signed by fifty-one citizens of Schuylkill county, against the bank and the restoration of the deposits; all of which he desired to send to the Chair, and asked that they be each read, referred to the Committee on Finance, and printed.

Mr. CLAY said he wished to make an observation or two. He imagined that the supporters of that Executive who holds in his hands the means of affording relief to the distressed people of this country, would no longer insist upon the fact that these various memorials emanated from party feeling. They had found themselves already, in the progress of the session, greatly mistaken in point of fact as respects the distress prevailing in the community. They had been compelled to own their mistake; and he (Mr. C.) trusted that they would now see that the language which is transmitted in the various memorials to Congress, does not proceed from those only who are opposed to the administration, but that it issues from all parties—that the struggle which is now going on is not a party struggle, but one resulting from universal, deeply felt, wide-spread distress throughout the whole country. Let Senators take the case before them as an example. He had it in his power to state, for he had understood it from the gentleman who was charged with the presentation of the memorial, that in 1828, the whole amount of votes given against the Chief Magistrate by the county of Berks, were but 937, whilst he had nearly 5,000 votes; and in 1832, there were 4,544 given for him, and 1,166 against him. This memorial he (Mr. C.) understood was subscribed by 1,860 individuals, and it ought to be added that it came only from a part of the county. In five or six other townships, as he had been informed, of the same county, memorials were in circulation, but the subscriptions to them were not completed, and therefore could not be forwarded with the present one.

The motion of Mr. McKean was agreed to.

Louisville (Ky.) Memorial.

Mr. CLAY rose to present a memorial. When he left, last September, the State of which he was a Senator, he had never beheld it in a condition of higher prosperity. The earth had yielded an abundant crop; and a ready and

good market existed for all the products of industry. The people were out of debt, full-handed, in good health; grateful for the numerous blessings which they enjoyed, and without the smallest presentiment of approaching calamity. This gratifying picture was now sadly reversed, and he was charged with the duty of presenting to the Senate a memorial from a large and highly respectable portion of his fellow-citizens, exhibiting the contrast, and imploring redress from Congress of their grievances. Louisville is the third, if not the second, of the three largest cities on the banks of the Ohio River, and, from its location at the rapids of that beautiful stream, is decidedly the first in commercial importance. Her two great sisters, Pittsburg, and Cincinnati, have already addressed their complaints to Congress, and Louisville now comes to unite her voice and her supplications to theirs.

He held in his hand the copy of a petition, the original of which has been confided to the charge of the member of the House of Representatives representing Louisville, to be offered to that House. This copy he now submitted to the Senate. Upwards of 1,000 signatures were attached to it, embracing individuals of both parties, almost the whole of the mercantile class, and men of every pursuit in business in that rising city. He knew personally many of the memorialists, among whom are the president and all the directors who were in Louisville, of the bank which had been selected to receive the Government deposits, and he harrowed nothing in saying that the memorialists constituted the great majority of the men of business, wealth, and respectability of Louisville. That bank, he had understood, by a unanimous vote of the board of directors, had rescinded the contract with the Secretary of the Treasury relating to the public deposits.

The existence of deep, wide-spread, and unexampled distress, is no longer disputed. It cannot be controverted. Intelligence of it is borne from every quarter, by every mail, in every form of private communication, as well as public petition and public proceedings. Those who were at first incredulous, are now forced to confess it. It stretches from the wild lands of Maine to the alluvial formations of the Mississippi. All parts of the Union feel, and are writhing under it. The Senator from Georgia (Mr. Forsyth) had denied its existence at Augusta; but at Augusta we had seen a call, from a large number of citizens, for a public meeting to take into consideration the prevailing distress. He had hoped that Kentucky would have been among the last that would suffer, although he knew it would be among the first to feel and manifest its sympathy for the sufferings of others. But the blight has reached her; and what State, what interest, sooner or later, must not feel its influence!

[Mr. Clay continued to speak at great length upon the topics of the memorial, and was followed by Mr. Tallmadge and Mr. Clayton on the same side.]

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Philadelphia Resolutions.

[SENATE.]

THURSDAY, February 27.

Public Distress.

Mr. WEBSTER said that he had sundry memorials to present, on the subject which had so much occupied the attention of the Senate. After describing them, Mr. W. said he should ask that they may be read and referred to the Committee on Finance. The first was from all the banks, their presidents and directors, of the town of New Bedford. They pray Congress to take immediate measures for the relief of the present distress of the country. Mr. W. said he had had this memorial in his possession for eight or ten days, but had not before had an opportunity of presenting it. The next was a memorial from the county of Warren, in the State of New York, signed by 803 persons, on the same subject. They say that the major part of them are persons who have been friendly to the present administration of the General Government. They state the distress in their section of the country to be such as has been represented in other papers of a similar character from other parts of the country. It was proper for him to state, Mr. W. said, that this petition was addressed to him, for a reason not very unnatural—the petitioners supposed his views more in accordance with theirs, on the subject of the memorial, than were those of the Senators from their State.

The third was a memorial on the same subject from 866 citizens in the county of Northampton, in the State of Pennsylvania. He had reason to believe that this memorial was most respectably as well as numerously signed; and that it embraced the most respectable portion of the population of the county. This last memorial had been sent to him for similar reasons with those which induced the New York memorialists to send to him theirs. Mr. W. thought it due to the New York Senators, as well as to those from Pennsylvania, who have had memorials of this character to present, to say, that they have presented them in the most decorous and respectful manner. He asked that the memorials be read and referred to the Committee on Finance, which was done accordingly.

MONDAY, March 8.

Delaware Memorial.

Mr. CLAYTON presented a memorial signed by one thousand six hundred and fifty citizens of the county of Newcastle, in the State of Delaware, praying the restoration of the public deposits to the Bank of the United States, and the permanent establishment of a sound and uniform currency. After stating the contents of the memorial, Mr. C. observed, that it had been delivered to him by a delegation composed of gentlemen of the first respectability, appointed at a meeting of the citizens of that county, held at the city of Wilmington, on the 22d ultimo, and represented to be the largest as-

semblage at that place within the recollection of those who attended it. The memorial, said Mr. C., is signed by a majority of all the legal voters of the only county in the State which has ever expressed an opinion by a plurality of votes at any election in favor of the present Chief Magistrate of the United States. Men of all parties, of all trades and professions, of all the grades of life, whether rich or poor, farmers, manufacturers, merchants, mechanics, and laborers, have concurred in the expression of that sentiment which is now pervading all the ranks and classes of men, in other sections of the Union, that the appropriate remedy for the distresses of the country is the restoration of the public treasure to the public agent primarily appointed by Congress to receive it. [Mr. C. then proceeded at great length to expatiate upon all the topics of the memorial, and to enforce its prayer for redress.]

TUESDAY, March 4.

Philadelphia Resolutions.

The Chair communicated the proceedings of, and resolutions adopted at, a town meeting in Philadelphia, of a large number of its citizens, who describe themselves friendly to the administration, and opposed to the United States Bank, but remonstrating against the removal of the public deposits, as impolitic, unjust, and in violation of the public faith; and ascribing the pecuniary embarrassments of the country to that measure.

Mr. CLAY wished to make a few observations on the subject. These resolutions and proceedings, he said, emanated from a large meeting of the real, genuine, and practical friends of General Jackson, as would be seen on referring to them, and we have been told, said he, by the public prints, that the assemblage amounted to several thousand. He had hoped that, considering the quarter from whence the memorial came, that some friend of the administration would have got up; and he expressed his satisfaction that one memorial, at least, had come from the exclusive friends of their party. It has hitherto been said, that all the agitation on this question was a party movement, intended to operate against the administration; but he trusted that gentlemen would now acknowledge that this memorial, in addition to others, gave sufficient evidence that this was not a party question.

Here we see, said Mr. C., as the proceedings will tell us, the pure, genuine, and unadulterated friends of General Jackson, memorializing Congress on this all-absorbing question, and speaking of their grievances, with their hopes and wishes for redress; and yet we see them about to be referred, without any notice, any remark from the friends of the administration, or any answer to the cries of distress which the memorialists convey. He had listened with great pleasure to the reading of the memorial, and was pleased

to find that, notwithstanding the extent of the attachment professed for the Executive, the memorialists were opposed to the measures which had produced so much embarrassment and distress. He was pleased, also, to find that the memorialists understood the inevitable consequences of the Executive measures, the establishment of another and a more capacious bank on the ruins of the present one. After such declarations as these, coming from the immediate friends and supporters of the Executive, he trusted that no Senator would rise in his place, and say that the memorials pouring in upon us daily, notwithstanding all the evidences to the contrary, were got up for political effect; and hoped they would believe that the ultimate object of them was to arrest that course of proceeding which had resulted in such ruinous consequences. The memorialists, it seemed, well understood the subject on which they appealed to the Congress of the United States. Was there a candid man in the country who would say, that, with at least five hundred State banks, with twenty-four States who have the right to establish as many banks in addition as they please, and three Territories, Florida, Arkansas, and Michigan, about to be admitted into the Union, who will have the same rights, with twenty-seven State Governments then, who will have the right to establish banks at will, when it is recollected that in the times of the old Bank of the United States there was not one bank in ten to what there is now; with all this, he said, will any candid man pretend to say, that the Government of the United States can get along without a national bank?

The memorial was referred, and ordered to be printed.

Rhode Island Senator.

Mr. POINDEXTER, from the select committee to whom was referred the credentials of the Honorable ASHER ROBBINS and ELISHA R. PORTER, on the subject of the contest between those two gentlemen for a seat in the Senate, made a report, which Mr. P. read at the Secretary's table, adverse to the claims of Mr. PORTER, and favorable to the right of Mr. ROBBINS, the sitting member, to his seat.

Mr. POINDEXTER wished to move the printing of the report and the documents. He understood that the minority of the committee wanted to submit a counter report, and he wished to give them time for that purpose, and when the report came up for consideration, he would submit his views.

Mr. WRIGHT said he was bound, in justice to himself and to the honorable Senator from Virginia, (Mr. RIVES,) who, it would be recollected by the Senate, was a member of this select committee, but who had upon a late day, resigned his seat in this body, to state a few facts in relation to the proceedings of the committee. According to his recollection, the meeting of the committee to decide the important matters referred to it was held three weeks

ago on Saturday last. At that meeting the views of each member of the committee were fully expressed, and it was found that himself and his honorable friend from Virginia, entertained the same opinions, and that their opinions differed with those entertained by the other three members of the committee. He, Mr. W., then understood that the report of the majority of the committee would be drawn up and submitted to the minority at a much earlier period; but he found no fault with the treatment which the minority of the committee had received from the majority. He knew, from his own experience, how little time any member of the Senate could get, from his other duties, to think and write upon subjects so important as those submitted to this select committee. The honorable chairman of the committee, as much pressed with other official duties as any other member of the body, had found it necessary to retain the papers on which the report was to be predicated until the present time, to enable him to draw up the report of the majority of the committee; and his (Mr. W.'s) knowledge of the case enabled him to say, that no person could write a report upon this subject without the possession of the papers before the committee. Such had been the course permitted to the parties by the committee, that those papers were indispensable in drawing a report taking either side of the great questions.

He, Mr. W., by the resignation of the gentleman from Virginia, was now left alone as the minority of the committee, and unexpectedly the labor of drawing up a report, expressing the opinion of the minority of the committee, was devolved upon him; as before the resignation of the honorable Senator, it was understood between them, that that able and much more competent individual should perform that labor. He, Mr. W., should have asked the Senate to elect a member of the committee to fill the vacancy occasioned by the resignation of his honorable friend, had it not been for the fact that the case had been finally decided by the committee before that event happened; but, with his best reflection upon the subject, he had come to the conclusion that placing, at this late period of their action, a new member upon the committee, would give little aid to their deliberations, while it would impose an arduous labor upon some member of the Senate.

A question had been suggested in the committee as to the right, under the rules and practice of the Senate, of the minority of its committees to submit a report. His present object was to say, that himself and his colleague before named upon the committee, had discussed this subject, and in view of the importance of the questions involved, they had considered it to be their duty to present their views to the Senate, in case it should be considered advisable for them to do so. He was aware that he ought to have been prepared, at this time, to submit those views, but want of possession of the papers had prevented him from having

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made that preparation, and his expectation, entertained until one week ago on Saturday last, that the Senator from Virginia would perform the labor, furnished another reason for his want of preparation.

He would now submit to the Senate the disposition of the whole matter, declaring his disposition, according to his best ability, to discharge his duty as a member of the committee, but entertaining no feeling as to the course which the Senate should indicate. The honorable chairman had moved the printing of the report of the majority, and if the Senate should so order, and no other expression should be made, he should feel it to be his duty, as soon as he could obtain the possession of the papers from the committee, to draw up a report containing the views of the minority of the committee, so far as they came in conflict with those which had been given to the Senate by the majority. Still, if such a report would not be received by the Senate, he desired to be saved the labor of making it, and, therefore, he hoped such expression would be now made as might direct him as to his duty. For himself, he felt no anxiety whatever, but rather regretted that this responsible duty had devolved upon him; but under the circumstances, and standing alone in the minority, he felt so strongly the importance of the questions, that he should not shrink from the attempt to present his views of them, in case they would be received by the Senate, and in that event those views should be presented at the earliest day at which his other duties, and the possession of the papers, would enable him to give them.

Mr. CLAY said that the time had arrived for proceeding to the orders of the day; but he would say, that the parliamentary propriety of allowing a counter report of a committee, no doubt, was not warranted by usage, as it had been applied in this country, until within a few years past. As regarded the practice of the Senate on this subject, he did not know what it was, but he thought it a bad one to introduce. He had no objection to receiving the report of the minority, but he wished now to move the postponement of the subject till tomorrow, and proceed to the consideration of the special order.

Mr. KING, of Alabama, was aware that, until a late period, it was not the practice to present counter reports; it grew up in the House of Representatives, and this morning there were two reports made in that body on the same subject. A few years since, the question was raised in this body. A Senator from South Carolina presented a majority report on the subject of reducing the duty on imported iron; a Senator from New Jersey presented the minority report, on the permission of the Senate. The report was received, for the purpose of enabling the minority fairly and fully to express their views and opinions. He hoped the view of the gentleman from Kentucky would not be carried into effect. If the report

could be sent back to the committee, so that the opinions of both the majority and minority could be presented in one view, he thought it would be the preferable course.

Mr. CHAMBERS recollected the case alluded to by the gentleman from Alabama, and if his object was to recommit this report, he thought if the gentleman examined it more closely, he would find himself mistaken in the extent to which he supposed the precedent went, as a justification of a minority report. [Mr. C. here read an extract from the Senate Journal.] Here there was no recommitment. In the progress of the proceeding, the minority presented a paper expressive of their views, which was received, and he was willing to extend the same indulgence to the gentleman from New York.

Mr. CALHOUN said he was in the Chair on the occasion alluded to, and had a distinct recollection of it. It was submitted as a paper, and printed as a paper, not as a report.

Mr. KIRK replied, that the minority made a report, and it purported to be the report of a minority of the committee, call it by what name you please, and it was also ordered to be printed. What distinction was there in calling it a paper, when it was a report, and was called a report? Now he was anxious to know the grounds, not only on which the majority, but also the minority, founded their opinions; and when a subject of so much importance was presented as one involving the right of an individual to a seat in the Senate of the United States, it was highly desirable to have the whole subject before us, so that Senators might be enabled to examine it thoroughly. He would withdraw his motion to recommit the report, and he hoped the gentleman from New York, on the part of the minority, would present his views on the subject.

Mr. WRIGHT said it was immaterial to him what disposition was made of the question. His object was to discharge his duty as a member of the committee, to the best of his ability, and if it was not a part of his duty to draw up a counter report, he had no desire to do it, but if it was, he would cheerfully undertake it. But from the general expression of the gentleman from Alabama and others on the subject, he would endeavor to do his duty as early as he could get possession of the papers and prepare the report.

The report was ordered to be printed.

WEDNESDAY, March 5.

Mr. PRESTON presented the credentials of BENJAMIN WATKINS LEIGH, elected a Senator by the Legislature of the State of Virginia, to supply the vacancy occasioned by the resignation of the Hon. WILLIAM C. RIVES.

The credentials of Mr. LEIGH having been read, the oath to support the constitution of the United States was administered to him by the VICE PRESIDENT.

Essex County (N. J.) Memorials.

Mr. FREELINGHUYSEN said he had received two memorials, from a very respectable portion of his fellow-citizens, on the absorbing subject of the public deposits. The one, said he, is from three hundred citizens of the township of Orange, in the county of Essex, being a majority of the legal voters in that township, as now organized. My friend who enclosed the memorial assures me that, had it been hoped with good reason that complaints would have prevailed here, nine-tenths of the township might have been readily obtained as memorialists. The other, sir, is from the adjacent township of Bloomfield, in the same county, and consists of about three hundred names, being a clear majority of that community. So that, as far as the public voice of the people has reached us, the Senators who represent New Jersey are consoled by the reflection that it speaks to them in opposition to the tenor of their instructions from the legislature. On the whole, I will say, Mr. President, that these are no "pot-house politicians"—they are the sinew of our manufacturing and agricultural strength. No department of the country can present a greater amount of respectable intelligence and enterprise, or of private and personal worth, and purity of character.

FRIDAY, March 7.

Lancaster County (Pa.) Memorial.

Mr. McKean presented a memorial, signed by 2,500 or 3,000 of the citizens of Lancaster county, Pennsylvania, complaining of pecuniary distress, which they ascribe to the removal of the public deposits from the Bank of the United States, and praying for their restoration. Mr. McK. moved that the memorial be referred to the Committee on Finance, and be printed for the use of the Senate.

Mr. WEBSTER would not interfere with the memorial before the Senate, uncalled for; but he thought the subject of sufficient importance to demand some notice. He wished to observe, that, if there was any thing that could impress on the minds of those who lead the Government of this country, a conviction of the necessity of applying a prompt and effectual remedy to the evils brought on the country by Executive measures, it would be found in these frequent memorials, coming, not from one State only, but from all the States, and proceeding not from one class only, but from all the various classes of the community, from all the various trades, occupations, and conditions, of our fellow-citizens. This memorial came from the county of Lancaster, in the State of Pennsylvania, and was signed by from 2,500 to 3,000 of its citizens, and it was well known to all the members of the Senate, that this was one of the most populous, the most wealthy, and the most beautiful counties of the State. We also know,

said Mr. W., that Lancaster is strictly an agricultural county. It did not depend for its wealth on the mineral productions of the earth, nor on manufacturing or commercial enterprise. It was a community of prosperous, thriving, and industrious farmers; and with what industry and success their avocations have been pursued, every one who had visited that beautiful valley could bear witness. This memorial came wholly from the agricultural interest. Sir, when the agricultural interest of the country comes to speak, it must be and shall be heard.

Philadelphia Mechanics' Memorial.

Mr. WEBSTER presented the memorial of the building mechanics of the city of Philadelphia; which, on Mr. W.'s motion, was read, referred to the Committee on Finance, and ordered to be printed. On the introduction of the memorial—

Mr. W. addressed the Chair at length.

I rise, sir, said Mr. W., to perform a pleasing duty. It is to lay before the Senate the proceedings of a meeting of the building mechanics of the city and county of Philadelphia, convened for the purpose of expressing their opinions on the present state of the country, on the 24th of February. This meeting consisted of three thousand persons, and was composed of carpenters, masons, brickmakers, bricklayers, painters and glaziers, lime-burners, plasterers, lumber merchants, and others, whose occupations are connected with the building of houses. I am proud, sir, that so respectable, so important, and so substantial a class of mechanics, have intrusted me with the presentment of their opinions and feelings, respecting the present distress of the country, to the Senate. I am happy if they have seen, in the course pursued by me here, a policy favorable to the protection of their interest, and the prosperity of their families. These intelligent and sensible men, these highly useful citizens, have witnessed the effect of the late measures of Government upon their own concerns; and the resolutions which I have now to present, fully express their convictions on the subject. They propose not to reason, but to testify; they speak what they do know.

MONDAY, March 10.

Massachusetts Resolutions.

Mr. SILSBEE said that he had received from the Governor of Massachusetts a copy of resolutions which had recently been adopted by the legislature of that State, in relation to the currency, and to the removal of the deposits of the public money from the Bank of the United States.

That these resolutions (which passed one branch of that legislature with but a single dissenting vote, and the other branch by a vote of three hundred and seven to one hundred and twenty-five) expressed the sentiments of a large

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majority of the legislature, recently assembled at Boston from every part of the commonwealth, and who carried with them a knowledge of the present and past condition of the agricultural, commercial, manufacturing, and other great interests of that State.

Mr. S. thought these resolutions would not have been sent here if the existing pecuniary embarrassments of the country were not so oppressive as, in the judgment of those who sent them, to call loudly for the interposition of Congress to relieve them. Mr. S. said it was inconceivable to him that any one, who had either ears to hear or eyes to see, could longer entertain a doubt that there was, from some cause or other, a heavy pressure in the money markets of those sections of the country where such pressures are generally first felt, and that this pressure must and would reach the other, and all the other sections of the country, if not already there. Yet he (Mr. S.) understood that there were some, though he believed not many, who even now not only doubted, but even denied the existence of any such distress or pressure.

TUESDAY, March 11.

Burlington (Vt.) Memorial.

Mr. PRENTISS said that a memorial had been transmitted to him from Vermont, praying for a restoration of the public deposits to the Bank of the United States, which he was requested to present to the Senate. The memorial, said Mr. P., is signed by one hundred and thirty of the principal business men of Burlington, the chief commercial and trading town in the State. With a very considerable number of the memorialists I am personally acquainted, and know them to be men of intelligence and respectability, some of them holding an eminent rank in the State for their intellectual qualities and moral worth. They are men altogether incapable of sending to this body, under their own signatures, groundless representations, or complaints originating either in fiction or a spirit of hostility to the administration; and I feel every assurance that they are neither influenced by any party prepossessions, nor have in view any party purposes. Some of them have long been known as avowed active friends of the administration; and there is no reason to believe that they are moved by any other than the purest and most patriotic motives. In communicating their complaints and opinions to Congress at this critical and alarming juncture, they perform a duty which they owe to themselves, and the community in which they dwell, and they do it, sir, in the language, and I may add, with the spirit and independence, which become freemen. They trust that the inquiry here will be, not whether the popularity of a high individual, or the strength of party, is sufficient to sustain the recent public measure against which they complain, but whether the

measure is right and just in itself, and consistent, in its operations, with the welfare of the country.

New Jersey Petitions.

Mr. FRELINGHUYSEN said he had been requested to present a memorial from four hundred and fifty-four of his fellow-citizens of Paterson, New Jersey. I am assured (said he) by the respectable committee who transmitted this memorial, that it is, with few exceptions, signed by all the business men of that town, and by a majority of the legal voters. The memorialists deplore the derangement of our currency, occasioned, as they believed, by the hostile attitude assumed by the administration against the Bank of the United States. To show, sir, the disastrous influence of the late rash measure of the Executive, I will make a short statistical extract from the statements of my correspondents. The number of spindles in operation, in 1832, was 43,439. Owing to the extreme pressure of the times, the proprietors of 24,580 spindles in Paterson, and 5,130 in its immediate vicinity, have been obliged to suspend their operations. The number of spindles now stopped would have required an annual supply of 2,200,000 lbs. of cotton. In view of these results, I beg leave to ask, can it be, sir, that they have been produced by a factitious panic, manufactured here? Can it be, that a mere artificial excitement has silenced the shuffle, paralyzed enterprise, and driven thousands of my fellow-citizens upon an almost hopeless search after employment? When gentlemen make these statements, I respectfully insist upon excepting my constituents from its operation. Sir, they are made of sterner material than to wait for indications here or anywhere, to regulate their judgments or prompt their feelings.

And, Mr. President, I have the consolation to know that many of those in the confidence of the Executive, think as I do, of this measure. The honorable Senator from Georgia, (Mr. FORSYTH,) of whom I may say without disparagement, that no Senator more ably sustains and vindicates the policy of the administration, informed us, some time since, that he could not have advised to the removal of the public deposits in the time and manner of the act; and, on yesterday, his honorable colleague assured us, that in a recent journey through six of our States, he ascertained that the public very generally condemned the course of the Executive, on this subject; and the latter gentleman thought that, had we been content to call it a mistake, instead of an encroachment, there would have been a decided expression of dissatisfaction by two-thirds of both Houses of Congress. Now, sir, with all this amount of adverse opinion, I am instructed by the legislature of New Jersey to sustain, by "my votes and influence, the course of the Secretary of the Treasury!" When the administration shall harmonize with itself on this point; when its best friends shall conclude to approve of the

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course of the Secretary, then, sir, I will think of the matter more seriously. But, until then, I choose, with the independence of a freeman, to follow the lead of my own sincere and deep conviction.

WEDNESDAY, March 13.

Memorial from Petersburg.

Mr. LEXEN said he rose to present a memorial on the subject which had so long agitated, was still agitating, and would, he feared, but too long continue to distract this great and lately flourishing country; the Senate would understand, of course, that he alluded to the subject of the deposits. It was a memorial from the merchants, manufacturers, mechanics, and other citizens of the town of Petersburg, in Virginia; a town always distinguished for its steady adherence to republican principles, and which, he took upon himself to say, had given as many and signal proofs of patriotism and devotion to the interests, the honor, and the happiness of the nation, as any town in the Union. Its export trade consisted chiefly in the two staples of cotton and tobacco; and the memorialists were perfectly competent to judge of the effects of public measures on their own interests and those of the country of which their town was the home market. [Mr. L. continued to speak at great length on the topics contained in the memorial.]

Removal of the Deposits.

The Senate resumed the consideration of the special order, being Mr. CLAY's resolutions, &c., on the subject of the removal of the deposits from the Bank of the United States.

Mr. TALLMADGE addressed the Senate as follows:

The first resolution alleges an illegal and unconstitutional exercise of power by the President of the United States. It involves matters of high import. It goes to the very structure of the Government; to the principles on which our whole political fabric is based. It involves the distribution of the powers of the Government under the constitution, and the exercise of those powers by the respective departments to which they are assigned. It becomes us, therefore, to enter upon the examination of such a subject, with all the candor and moderation which its importance demands; and not rashly undertake to unsettle or overturn principles which the wisdom of our ancestors established, and which our own experience in their practical operation has found so salutary.

The powers of the Government are divided into legislative, executive, and judicial. This was the first and fundamental proposition adopted by the convention that framed the constitution; and from this sprang the subsequent organization of the Government. This was the basis of the constitution in the distribution of its powers. It was the theory of the constitution to keep them separate and distinct. The

history of other nations had shown that the union of these powers was inconsistent with free government. Other Governments have been more or less free, in proportion as these powers have been separated or united. This separation and distribution became a settled maxim with the American people, at the time of the adoption of the constitution. To this we may attribute the great freedom which we have enjoyed, beyond any other people, in ancient or modern times. Being thus separated, the object has been, and should be, to confine the exercise of each to its proper sphere. It will be my purpose to show, that the President of the United States, in the exercise of the power complained of in the resolution under consideration, acted within the limit of Executive authority, as prescribed by the constitution; that any other construction would deprive him of the power belonging to the Executive department, and thereby impair that fundamental principle which alone gives security and stability to our system.

By the constitution, "the executive power shall be vested in a President of the United States of America." The President's power, then, depends on the limit assigned to the executive power. To ascertain that limit, it is necessary to inquire into its nature and object. The inconveniences which were experienced by the old Continental Congress, in respect to the powers of Government exercised by it, and the manner of its exercise, subsequently led to the adoption, by the States, of the articles of confederation. Many difficulties were obviated by these articles of perpetual union. Still, there were defects inherent in the very nature of the system of Government thus adopted. Experience soon pointed them out; and amongst them was a very prominent one, namely, "the organization of the whole powers of the General Government in a single assembly, without any separate or distinct distribution of the executive, judicial, and legislative functions." The want of a National Executive was deemed one of the most fatal defects of the confederation. All the powers of Government were vested in a single body. The execution of many of its most important powers was intrusted to a committee composed of one member from each State. This committee was authorized to sit during the recess of Congress, and under certain limitations and restrictions, could exercise the same powers that Congress itself could exercise whilst in session. In the convention that framed the constitution, so apparent was this defect, that the proposition to establish a National Executive seems to have met with universal approbation. There was, however, some diversity of opinion on the question, whether the Executive should consist of a single person, or of a plurality of persons. An examination of the nature of the Executive office soon satisfied the convention that its powers could be much more advantageously and safely exercised by one than by several. They had before them the history of other nations; many which had

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claimed the name of republics; and, in every instance, it was found that the division of executive power had led to the most disastrous results. Examples from Roman history were presented, of the mischief which had grown out of the discussions between the consuls and military tribunes. Unity, therefore, in the Executive department of the Government, was deemed essential to secure energy and responsibility. Without energy and responsibility, the Government, it was perceived, would not answer the purpose of its creation. The want of these qualities had been severely felt during the war of the revolution, out of which the country had but recently emerged. One of the learned authors of the *Federalist* summed up the argument on this subject with this emphatic language: "A feeble Executive implies a feeble execution of the Government. A feeble execution is but another phrase for a bad execution; and a Government ill executed, whatever may be its theory, must be, in practice, a bad government."

If the Secretary of the Treasury is recognized as the head of a Department, from whom the President has a constitutional right to require an opinion, then, any difference in the phraseology of laws organizing the several Departments, can have no effect to alter his executive character. To my mind this proposition is so plain, that it is with great reluctance that I presume to occupy a moment of the time of the Senate, in an examination of the alleged distinction arising from legislative construction. This reluctance is only overcome by the fact, that the honorable Senator from Kentucky, (Mr. CLAY,) with others, has urged it with so much apparent sincerity, that it becomes my duty to show the entire fallacy of the argument attempted to be drawn from that source. To a superficial observer, there would seem, at first view, to be some ground for the distinction. But a critical examination of the action of Congress, will show that its legislation, in this respect, has been in accordance with the provision of the constitution, by which the Treasury Department was created an Executive Department, equally with those whose executive character has never been denied.

The first Congress that assembled under the new constitution in 1789, amongst its earliest proceedings, passed a resolution expressing its opinion that there ought to be established certain Executive Departments: namely, a Department of Foreign Affairs, a Department of Treasury, and a Department of War; and that the head of each Department should be removable by the President. In pursuance of this resolution, a committee reported bills for the establishment of these several Departments. The first was entitled "An act for establishing an Executive Department, to be denominated the Department of Foreign Affairs." This act was afterwards, in the same year, amended, and changed to the "Department of State." The second was entitled "An act to establish

an Executive Department, to be denominated the Department of War." The third was entitled "An act to establish the Treasury Department." From the difference in phraseology in the titles of these acts, the two former being denominated Executive Departments, and the latter not, it has been gravely contended that the Treasury Department was divested of its executive character; and that, therefore, the President could not exercise his power of removal of the head of this Department, as he could with the heads of the other Departments which were termed executive. This power of removal can be exercised over none of these Departments, except on the ground of their being executive. If, then, we look to the acts themselves establishing these Departments, and not confine ourselves to their titles, we shall find that the same power in the President to remove is recognized in all of them alike. Not a power granted by law, but the recognition by law of a power granted by the constitution. It was upon the bill to establish the Department of Foreign Affairs, that the celebrated debate arose as to the power of removal—the one side contending that the power belonged to the President, by virtue of the executive powers of the Government vested in him by the constitution, and the other maintaining that the power of removal should be exercised by the President, conjointly with the Senate. I will not detain the Senate, at this time, by the recapitulation of arguments which were so ably presented on that occasion, and which have been so often referred to on this. It is sufficient for my purpose to state, that the important question was decided by that Congress in favor of the President's power to remove the heads of all these Departments, on the ground of their being Executive Departments. And lest it might, in after times, be inferred that this power was conferred by law, instead of being granted by the constitution, the several bills were so amended as to recognize the power as derived from the constitution, and not as a power granted by law.

What then, are the relative powers and duties of the President and of the Secretary of the Treasury?

First—as to the President's powers.

We have already seen that the Executive power is vested in the President, as fully as the legislative power is vested in Congress, or the judicial power in the Judiciary. He has, by virtue of that power, the control of the Executive Departments, of which the Treasury is one. They are subject to his superintending care and general supervision. Amongst other powers, too, is that of appointment to office, by and with the advice and consent of the Senate, in certain cases; and, in certain other cases vested in him by law, he has the sole power of appointment. He also has the power to fill vacancies which may happen in the recess of the Senate. But the most important power which he possesses, so far as the questions involved in

the present discussion are concerned, is the power of removal from office. This shows the nature of the Executive authority, and how it was intended that the Executive Departments should be under his control and supervision. This power has been already alluded to. The right of the President to remove from office was settled by the Congress of 1789, soon after the adoption of the constitution. The debates on this question throw much light on the powers of the Executive. Many of those great men and pure patriots that composed the Congress of 1789, were the same that framed the constitution, whose powers they were, thus early, called on to interpret. No man understood better the intentions of those who formed, and those who adopted, that instrument, as the great charter of their rights and liberties. In the construction which they gave to this power of removal in the Executive, they were but carrying out the principles which they had adopted in the distribution of the powers of the Government. Any other construction would have mingled and united those powers which the constitution had so carefully separated. It seemed to be held by those sages, that, as the constitution had vested all Executive power in the President, the legislature had no power to limit or modify his executive authority. This legislative enactment, although it could not confer power, was a practical commentary and construction of the constitution, not only in relation to the power of the President, but also as to the duty of the head of an Executive Department. The President is responsible to the people for the faithful execution of the laws; and how can he do his duty, in this respect, unless the officers of the Executive Departments are under his control, and subject to removal by him? If Congress should put any particular duty on the Secretary of the Treasury, which is in its nature executive, and he is to be entirely independent of the President in the discharge of it, it would be a usurpation of the executive power by the legislature. For the President has no power to see that duty faithfully performed, except by his power of removal. If the Secretary could thus be rendered independent in the one instance, he might in all, and the executive power would virtually be wrested from the President, in whom it is all vested by the constitution. His only remedy, then, is the power of removal. This was contemplated by the act establishing the Treasury Department.

It is true, there was a difference of opinion on the subject in the first Congress, when this important question was agitated. It is also true, that General Hamilton, one of the distinguished authors of the *Federalist*, previous to the ratification of the constitution by the several States, seemed to suppose that the power of removal was one to be exercised by the President conjointly with the Senate. Mr. Madison, his no less distinguished colleague in that great work, was of a different opinion—and it cannot be doubted, that the Congress of 1789, after the

most mature deliberation, came to the correct conclusion, namely, that it was a power conferred on the President by the constitution, and one with which the legislative power could not interfere. Whatever diversity of sentiment there may have been at that day, the decision of that Congress was deemed conclusive on the subject, and the matter has been considered at rest, until the agitation of the present question. Such have been the views of learned commentators on the constitution, and, even though they might have differed from the Congress of 1789, were the subject now to be presented for the first time, still they have not had the rashness to even permit themselves to view it as an open question. I beg leave here to introduce an authority in support of my positions. It is that of Chancellor Kent—a man whose fame, in the department of civil jurisprudence, is not confined to his own State, or even to the Union—whose reputation is emphatically the property of the nation, and which the nation will proudly cherish. He says, “In the act for establishing the Treasury Department, the Secretary was contemplated as being removable from office by the President. The words of the act are: ‘That whenever the Secretary shall be removed from office by the President of the United States, or in any other case of vacancy in the office, the assistant shall act.’ &c. This amounted to a legislative construction of the constitution, and it has ever since been acquiesced in and acted upon, as of decisive authority in the case. It applies equally to every officer of Government appointed by the President and Senate, whose term of duration is not specially declared. It is supported by weighty reasons, that the subordinate officers in the Executive department ought to hold at the pleasure of the head of that department, because he is invested generally with the executive authority, and every participation in that authority by the Senate was an exception to a general principle, and ought to be taken strictly. The President is the great responsible officer for the faithful execution of the law, and the power of removal was incidental to that duty, and might often be requisite to fulfil it.” Another legislative construction is to be found in a concurrent resolution of Congress in 1797, in relation to the distribution of the Laws of the United States: that, amongst others, one set be delivered to the Secretary of State; to the Secretary of the Treasury; to the Secretary of War, &c.; and in the case of the death, resignation, or dismission from the office of either of said officers, then the laws to belong to the successor, &c. This was in accordance with the principle established by the Congress of 1789, and presents the case even in stronger language—dismission, instead of removal—the very terms used in the resolution of the honorable Senator from Kentucky, which we are now considering. I hold, therefore, the power of removal in the President to be absolute and unconditional, and to be exercised in his discretion, and without

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cause assigned. In the language of another learned commentator on this subject, "in the exercise of his political powers, he is to use his own discretion, and is accountable only to his country and his own conscience. His decision in relation to these powers is subject to no control; and his discretion, when exercised, is conclusive."

It follows, then, that the President has a controlling influence over the acts of the Secretary of the Treasury in the discharge of his duties in the Executive Department, and can carry into effect his wishes by virtue of his power of removal.

What, then, are the duties of the President?

He is bound, by oath, faithfully to execute the office of President of the United States; and, to the best of his ability, preserve, protect, and defend the Constitution of the United States. He shall also take care that the laws be faithfully executed. How can he discharge those duties, if he suffers himself to be deprived of any portion of the executive power vested in him by the constitution, or if the laws make the heads of the Executive Departments independent of him? It results, then, that though the Secretary of the Treasury has the power, at his discretion, to remove the deposits, still he can be controlled in the exercise of that power, by the superintending executive power of the President. And it is the farther duty of the President to remove the Secretary from office, if, in his judgment, he does not entertain proper views in relation to his duties, and will not carry the views and wishes of the President into effect. In the case of the late Secretary, he was removed, or dismissed, because he did not entertain proper views on the subject of the deposits; and because he was unwilling to carry into effect the views of the President, who had the right to direct him in the discharge of a discretionary duty. The bank cannot complain of the exercise of this power—for its charter was granted subject to the constitutional power of the Executive, and with full knowledge of his rights, as they were understood and settled as early as 1789.

A duty intrusted to the discretion of the Secretary is, in other words, a duty confided by law, to the discretion of the Executive Department of the Government. Whereas, a specific duty imposed, by law, on the Secretary, or even on the President himself, is to be specially performed—in the one case by the Secretary, in the other by the President; and in both, on the responsibility of the Chief Executive to see the laws faithfully executed. If the Secretary could be independent of the President in the discharge of such duty, what becomes of the responsibility which the framers of the constitution intended to secure to every department of the Government? Such a construction would defeat one of the great objects of the constitution in the distribution of its powers. Where Congress imposes on the Secretary the performance of a specific duty, it is imperative,

and the responsibility, so far as the propriety of the measure is concerned, rests on Congress—and Congress is responsible to the people for such an act of legislation. Again: where it imposes on him as the head of an Executive Department, a discretionary duty, the responsibility rests on the President, who is also responsible to the people, and can be reached by them, on the recurrence of a re-election, or through their representatives, for a corrupt exercise of the executive powers of the Government. But, if the Secretary, in the performance of such a duty, is beyond the control and supervision of the President, and not subject to removal by him, there is responsibility nowhere—none on the part of Congress, for its legislation was not imperative, but discretionary. None on the part of the President, for he has no power to interfere. None on the part of the Secretary, for there is nobody to whom he is responsible, or by whom he can be called to account. In the removal of the late Secretary of the Treasury, the President only exercised his constitutional power, and assumed a responsibility imposed on him by the constitution—a responsibility which he cannot cast from him, even by giving his assent to a law which should go to curtail his powers. Suppose the charter of the Bank of the United States had said, in so many words, "that the deposits of the money of the United States, in places in which the said bank and branches thereof may be established, shall be made in the said bank and branches thereof. But the Secretary of the Treasury may at any time, in his discretion, order and direct them to be removed; and that, in the exercise of that discretion, the President of the United States shall in nowise interfere." Even this language would not have altered the case—could not have curtailed the powers of the President. Such a provision would have been perfectly nugatory. It would be an encroachment of the legislative upon the executive power. If the deposits were unsafe, and the Secretary, under this legislative discretion, should refuse to remove them; or if he was about to remove them to an unsafe place, cannot and ought not the President to remove him? And still such an exercise of power would not be more legitimate than the one under consideration.

My conclusion, therefore, is, that the President in the removal of the late Secretary of the Treasury, and the appointment of his successor, has not "assumed the exercise of a power over the Treasury of the United States not granted to him by the constitution and laws," and of course, not "dangerous to the liberties of the people."

If the President has assumed such a power, as is alleged in the first resolution submitted by the honorable Senator from Kentucky, the resolution ought not to pass, nor receive the sanction of the Senate, because it is a virtual impeachment of the President.

The second resolution introduced by the Sen-

ator from Kentucky, alleges that the reasons assigned by the Secretary of the Treasury for the removal of the deposits from the Bank of the United States, are unsatisfactory and insufficient.

This resolution ought not to pass, because it calls for no legislation, and leads to no result. Even admitting it to be true, what follows? There is no action. No legislation is proposed. There may be sufficient reasons, even if the Secretary has not assigned them. If so, then, so far as the action of Congress is concerned, it is perfectly immaterial whether the Secretary's reasons be sufficient or not. What was the object of that provision in the charter requiring the Secretary to report his reasons to Congress? It was, without doubt, to enable Congress to act in its legislative capacity on the subject. How can Congress thus act? Either by express enactment, or by joint or concurrent resolution. Congress can act in no other capacity. The Senate can act in no other capacity. This matter does not appertain to its executive or judicial powers. The object then was, in requiring the Secretary to report his reasons, to enable Congress to legislate—first, by directing the deposits to be restored to the Bank of the United States; or second, by ordering them to some other safe places of deposit. This resolution proposes to attain neither object, and is therefore perfectly nugatory—worse than useless. But it is urged that an expression of the Senate will have its effect on the Secretary; and, in a tone of defiance, it is said, Let him *dare* refuse or omit to restore the deposits after such an expression? Sir, the Secretary is made of sterner stuff than to yield his opinion of duty to menace, no matter how high the source from whence it comes, or I have altogether misapprehended his character. The step he has taken was from the most mature deliberation—from a thorough conviction that the great and paramount interests of the country required it—and that the bank, from its conduct, had forfeited all claim to the longer custody of the public deposits.

Sir, it was my intention to have gone into a full examination in relation to the rights and duties of the Government directors; but time will not permit. Suffice it to say, that the manner in which the important business of the bank is intrusted to the exchange committee—and that committee appointed by the president of the bank—and the Government directors excluded from any participation in its transactions, evinces a hardihood, a boldness, a recklessness on the part of the bank, rarely equalled, and never surpassed, in the history of a moneyed corporation. The very object of those directors, as it is to be gathered from the original project of Mr. Dallas, and from the whole tenor of the debate on the passage of the bill, has, by the practice of the bank, been defeated. And to cap the climax, these very directors, for the performance of those duties for which their offices were created, and they ap-

pointed, have received the marked condemnation of this Senate. It remains to be seen, whether the sentiments of the people can be brought to favor the recharter of an institution which has so grossly attempted to defeat one of the very ends of its incorporation.

THURSDAY, March 13.

Public District.

Mr. WEBSTER said he rose to present a memorial, very numerously signed by citizens of Brooklyn, in New York, and to present, also, the proceedings of a meeting of citizens of that place, in which sundry resolutions had been passed, respecting the all-absorbing question which now agitates the country. With some of those citizens he had the honor to be acquainted, and he knew them to be distinguished for knowledge, patriotism, and high character. Both the memorial and the resolutions are framed in the most judicious manner, and are well entitled to the respectful consideration of the Senate. One of the resolutions respected the question of the constitutional power of Congress to incorporate a bank, and stated the question in so few words, and placed it in what appeared to him so just a light, that he would read that resolution, in his place:

Resolved, That though a public meeting is not an appropriate place for the discussion of constitutional questions, we still deem it proper to express the opinion, that upon questions of that kind, not less than upon those relating to private rights, an adherence to decisions deliberately made, and subsequently acted on as the law of the case, is the rule of safety, and the only rule that can give stability either to law or government. When, therefore, we know that a great proportion of the actual framers and original expounders of the constitution, found no objections either in the letter or spirit of that instrument, against the incorporation of a national bank; when the highest judicial tribunal in the country has solemnly passed upon it, and declared it to be constitutional; when, in two instances, and at distant periods, such acts have been passed by Congress, and received the sanction of successive Presidents; and when we have already lived under them, and submitted to their operation, almost forty years—we consider it too late to disregard all evidences of constitutional right, and to prostrate the public interests, upon a mere difference of opinion, however strongly formed, on the original question."

The memorial, said Mr. W., is numerously signed by substantial, intelligent, and well-known citizens, who see and feel the pressure of the times, and who have felt it their duty to join with others in giving to Congress proofs of their deep and settled conviction that the state of the country is such as to demand, imperiously, effectual and prompt relief.

The memorial and resolutions were then, on the motion of Mr. W., read, referred to the Committee on Finance, and ordered to be printed.

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Boston Memorial.

[SENATE.]

Maine Memorials.

Mr. SPRAGUE said he had been intrusted with two memorials, which he would now present to the Senate: one of them from citizens of Eastport, and the other from those of Lubec, in the State of Maine, on the all-absorbing subject which was now before the Senate and the country. That from the citizens of Eastport represented that they were largely engaged in foreign and domestic trade, which for seven years past had been prosperous beyond example; but suddenly they found their prospects and their property destroyed. Many memorialists in Philadelphia, New York, and Boston, with whom they were accustomed to trade, had failed, and this, as well as other causes, essentially affected their own prosperity. All these evils they ascribed to the Executive, and they asked relief from Congress; and they especially and solemnly appealed to their wisdom and patriotism, and hoped that no party consideration would outweigh their duty to their country and their constituents. The other memorial, from Lubec, contained the names of many well known to Mr. S. They were merchants and other men of respectability. Their statement was a little stronger than that from Eastport. They said that their sufferings would not be borne; that their business was prostrated, credit at an end, and there was no prospect of a termination of these evils; they had experienced a sudden and terrible change from a state of high prosperity. They asked the restoration of the deposits, and they expressed the belief that the recharter of the United States Bank would benefit the country; that a national currency could be made uniform only by a national institution. They said that the assertion made in high places, that the distress was owing to a wilful act of the bank, was an insult to their understandings, and a mockery to their sufferings.

Mr. S. asked that the memorials might be read, printed, and referred to the Committee on Finance; and it was so ordered.

Virginia Memorial.

Mr. TYLER presented a series of resolutions adopted by the people of Accomack county, disapproving in strong terms of the course of the President in relation to the public deposits. He at the same time presented a memorial numerously signed by the citizens of Fredericksburg and Falmouth, reprobating, in strong but respectful language, the late Executive proceedings. As to the first, he would remark, that the county of Accomack was one of the largest counties in the State, and equal to any other for intelligence and patriotism—that he recognized in the names of some of those who appeared to have had the most active agency in the meeting, gentlemen with whom he had the pleasure of a personal acquaintance, and for whose high qualities, both intellectual and moral, it was not necessary for him to avouch. As to the

resolutions, they spoke for themselves, and called for no commentary.

The memorialists from Fredericksburg and Falmouth constitute as intelligent and as respectable a body of men as can anywhere be found—they represent that great distress had flowed from the Executive proceedings; and indulge in anticipations of still greater to come. They remonstrate against those proceedings, as unwise, illegal, and unjust, and as involving assumptions of authority not warranted by the constitution or laws, and urge upon Congress a return of the public moneys to the depository provided by law, the Bank of the United States. And why, said Mr. T., should the deposits not be restored? Many weeks ago the Senate had been told, that the restoration of the deposits and the recharter of the bank meant one and the same thing; and that the only question before the country was "bank or no bank."

[Mr. T. continued his remarks, going fully into the consideration of all the points presented in the memorial.]

TUESDAY, March 18.

Boston Memorial.

Mr. WEBSTER said that it would be perceived by the Senate, that he had a roll before him, of no ordinary dimensions. It was a protest, respectfully addressed to both Houses of Congress, against the recent proceedings of the Executive Government in regard to the public moneys of the United States, and urgently requesting Congress, by the interposition of its own just authority, to restore the constitution and laws to that free and proper action which the public interest and prosperity demanded. This paper, sir, (Mr. W. said,) proceeded from a place not altogether obscure—not altogether unknown in the history of the United States. It came from the people of Boston, assembled in Faneuil Hall: it came from those walls in which the earliest accents of independence rang—from under that roof beneath which our young American liberty shook her wings, ere she went forth to fly over a thousand hills, and to proclaim independence to three millions of souls. It was sent by those, and the sons of those, who, in that same place, in '74, '75, and '76, heard the voices of Otis, of Warren, and of Hancock, and who gave to those distinguished speakers as much impulse as they received from them. This paper, Mr. W. said, was signed by 8,841 independent voters, tax-payers, and men of property of the city of Boston. Here were no men of straw; this paper presented the names of men of different habits and occupations, of numbers whom he had mentioned as the electors of that city; and, as far as he knew, of a greater number of persons than any excited election had ever called together before. The names were here for the inspection of the Senate; and his colleague, who was well ac-

quainted with many of them, could vouch for their high standing and respectability. Whatever character the memorial might bear elsewhere, it here challenged investigation.

This paper had been brought here by a committee of gentlemen, of whom, as they were his neighbors and friends, he could hardly speak with delicacy; and especially as some of them were as well known to Congress as to himself, and needed no recommendation from him. Believing the law to have been violated, they came to Congress; believing that distress exists to a calamitous extent, and believing that no other power on earth can relieve it, their commission is to the Senate and House of Representatives of the United States exclusively. Their protest was on such a subject that no considerations on earth could have induced them to sign such a paper, had it not been for that alarming, shocking state of things, so deeply affecting the public interests. Had not all incredulity on the subject become satisfied? Had not the whole of the population, from Maine to New Orleans, been satisfied—had not all their doubts been silenced? If there be on the vast surface of this happy country, on the sides of its fertile hills, and in the soil of its rich valleys—if there be any spot so favored, that distress has not reached it, let the inhabitants of that spot rejoice; but let them rejoice with fear and with trembling; for, so sure as the light of the sun—if he might compare what was beneficent in action with that which was deleterious—so sure as the rays of the sun would, in due time, penetrate the deepest shades of the forest, so sure was it that the distress which now affected the industry and prosperity of a great part of the country, must act everywhere and be felt everywhere.

[Mr. W. continued his remarks at much length, and was followed by Mr. Sprague on the same side.]

Rechartering Bank United States.

Mr. WEBSTER said: I rise, Mr. President, pursuant to notice, to ask leave to bring in a bill to continue, for six years, the act incorporating the subscribers to the Bank of the United States; and shall hope for that indulgence of the Senate which is usually granted on such occasions, if I accompany its introduction with some remarks on the general state of the country, as well as on the nature of the measure proposed. If leave be granted, it is my purpose to move to refer the bill to the Committee on Finance, that it may take the usual course, and come up for the consideration of the Senate in due season.

Mr. President, in the midst of ample means of national and individual happiness, we have, unexpectedly, fallen into severe distress. Our course has been suddenly arrested. The general pulse of life stands still, and the activity and industry of the country feel a pause. A vastly extended and beneficent commerce is checked; manufactures suspended, with incal-

culable injury to those concerned in them; and the labors of agriculture threatened with the loss of their usual reward. Our resources are, nevertheless, at the same time, abundant, and all external circumstances highly favorable and advantageous; such as fairly promised us, not only a continuance of that degree of prosperity which we have actually enjoyed, but its rapid advancement, also, to still higher stages.

The condition of the country is, indeed, singular. It is like that of a strong man chained. In full health, with strength unabated, and all its faculties unimpaired, it is yet incapable of performing its accustomed action. Fetters and manacles are on all its limbs. If we could but unbind it, if we could break these iron chains, if we could once more set it free, it would, in a moment, resume its activity, and go on again in its rapid career.

It is our duty, sir, to relieve this restraint, to unshackle the industry of the people, and give play, once more, to their common action and their common energies. The evils, all the evils, which we now feel, and feel so acutely, result from political measures; and by political measures, and political measures alone, can they be redressed. They have their origin in acts of Government, and they must find their cure in other acts of Government.

Only six months ago, sir, the country presented an aspect, in regard to all its great interests, exceedingly satisfactory and gratifying. Our commerce was highly prosperous, and our manufactures, for the present, at least, flourishing. Agricultural products commanded fair prices, and the general appearance of things exhibited more than a usual degree of activity. The year elapsing between the autumn of 1833 and that of 1838, was a year of great prosperity. In the activity of commerce, it is possible enough that some degree of overtrading had taken place; but there is nothing to show that great excess had been committed in that particular. In general, the state of things was sound, as well as prosperous. The commerce of the country had reached, I think, to a greater extent than in any former year; the amount of exports for 1833 being, according to the Treasury estimate, no less than ninety millions of dollars, and that of the imports no less than one hundred and nine millions. The internal and coasting trade was in a still more flourishing condition. This branch of the national industry has grown into the very highest importance, affording a vast field for active usefulness, enriching all parts of the country by its mutual exchanges of commodities, and furnishing profitable employment to great numbers of the people. It was carried on last year, both by sea and land, with great vigor; and the situation of the currency of the country gave it facilities such as never existed elsewhere over so broad an extent. The money circulation was free, and the banks in good credit. They were doubtless somewhat too economical in the use of specie, and sustained their credit on a basis not sufficiently broad to be quite secure. But

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no great degree of danger to the circulation was felt, or generally feared.

Six months ago a state of things existed, highly prosperous and advantageous to the country, but liable to be injuriously affected by precisely such a cause as has now been put into operation upon it. Business was active, and carried to a great extent. Commercial credit was expanded, and the circulation of money was large. This circulation, being of paper, of course rested on credit; and this credit was founded on banking capital, and bank deposits. The public revenues, from the time of their collection to the time of their disbursement, were in the bank and its branches; and, like other deposits, contributed to the means of discount. Between the Bank of the United States and the State banks, there was a degree of watchfulness, perhaps of rivalry; but there was no enmity, no hostility. All moved in their own proper spheres, harmoniously and in order.

The Secretary disturbed this state of peace. He broke up all the harmony of the system. By suddenly withdrawing all the public moneys from the Bank of the United States, he forced that bank to an immediate correspondent curtailment of its loans and discounts. It was obliged to strengthen itself; and the State banks, taking the alarm, were obliged to strengthen themselves also, by similar measures. So that the amount of credit actually existing, and on which men were doing business, was suddenly greatly diminished. Bank accommodations were withdrawn; men could no longer fulfil their engagements by the customary means; property fell in value; thousands failed; many thousands more maintained their individual credit by enormous sacrifices; and all being alarmed for the future as well as distressed for the present, forbore from new transactions and new engagements. Finding enough to do to stand still, they do not attempt to go forward. This deprives the industrious and laboring classes of their occupations, and brings want and misery to their doors. This, sir, is a short recital of cause and effect. This is the history of the first six months of the "experiment."

It is difficult, sir, to restrain one's indignation, when, to so much keen distress, there is added so much which has the appearance of mere mockery. Sir, let the system of the administration go on, and we shall soon not know our country. We shall see a new America. On the map where these United States have stood, we shall behold a country that will be strange to us. We shall see a class of idle rich and a class of idle poor; the former a handful, the latter a host. We shall no longer behold a community of men, with spirits all active and stirring, contributing, all of them, to the public welfare, while they partake in it, pushing on their fortunes and bettering their own condition, and helping to swell, at the same time, the cup of the general prosperity to overflowing. We shall see no more of that credit which

reaches out its hand to honest enterprise; of that certainty of reward which cheers on labor to the utmost stretch of its sinews; of that personal and individual independence which enables every man to say that no man is his master. Sir, I will not look on the picture. I will not imagine what spectacle shall be exhibited, when this country not only halts on her onward march, but recedes; when she tracks back in the long and rapid strides of her forward movement; when she sets herself to undo all that she has done; when she renounces the good she has attained; when she obstructs credit, destroys enterprise, arrests commerce, and smotherers manufactures.

I will now, sir, state the general substance of the bill which I ask leave to introduce.

The first section proposes to continue the present bank for six years, but with this provision, viz., that so much of the present charter as gives the bank an exclusive right shall not be continued, but that Congress may make any other bank, if it see fit, to come into existence at any time after 1836.

This is the great feature of the bill. It continues the bank for a short period, and takes away the exclusive right. Congress is thus left at perfect liberty to make another bank whenever it chooses. When the present agitation shall have subsided, when a day of calm consideration comes, and the people have had time for deliberation, then Congress may make a permanent provision, satisfactory to itself and to the country. Can any thing be more reasonable than this? Can the bitterest enemy of the present bank refuse to give it time to wind up its affairs without distress to the people? Can the most ardent advocate of a new bank refuse, meantime, to allow the country to relieve itself, by the use of the present, until a new one shall be established?

Sir, I am not dealing in plausibilities only. I mean to leave the whole question between the bank and a new one, fairly open. I mean to give to neither any manner of advantage. If Congress establish a new bank, it may easily go into operation while the present is gradually retiring from operation, and the business of the country will feel no violent shock.

I mean to give the present bank no claim to a renewal; but, on the contrary, the only new power conferred on it by this bill, is a power to enable it to wind up its concerns.

As to the time, I think six years not too long. If we were now certain that a new bank would come into existence in 1836, I think it would be convenient, for all parties, that this bank should have six years to run. The new bank would hardly get into full operation under a year or two, and time is absolutely necessary to enable this bank gradually to collect its debts. A hastened collection must distress the people. With an existing debt of fifty-five millions, and pressed and solicited, on all sides, still further to extend its loans, in order to relieve the country, all must see that the affairs of the bank can-

not be closed without intolerable pressure on the community, unless time be given for that purpose. But, if six years be thought too long, I will consent to five, or to four. My own opinion is, that six years is not too long.

The second section provides, that the public moneys, becoming due after the 1st of July, shall be deposited in the bank and its branches, as heretofore, subject, however, at any time after this act shall be accepted, to be removed by order of Congress. If Congress shall establish a new bank, they will of course remove the deposits into it. The effect of this provision will be to give to Congress, at all times, what rightfully belongs to them—a full control over the public purse. It separates that purse from the sword, and re-establishes the just authority of the legislature.

Then comes the section by which the bank is to pay \$200,000 a year, for each of the six years, as compensation for the benefits of a continuance of its charter. This provision is adopted from the bill of 1832. For one, I should have been willing that a fixed percentage should have been paid, instead of this bonus, to be divided among the States, according to numbers; but others objected to this, and I have sought to avoid all new causes of difference.

The next section authorizes Congress to restrain the bank from issuing notes of less denomination than twenty dollars, if it shall see fit so to do, any time after March, 1836. This, too, is borrowed from the bill of 1832, and its object was fully discussed on that occasion. That object is to get rid of the circulation of all notes under five dollars, and, by so doing, to extend the specie basis of our circulation. When the States shall direct their own banks to issue no notes less than five dollars, then it is proposed that Congress shall direct the Bank of the United States to issue no notes below twenty dollars. The state of our currency will then be, as I explained the other day, that, up to five dollars, the currency will be silver and gold; above five dollars, it may be silver and gold and notes of State banks; and above twenty dollars, silver and gold and notes of State banks and notes of the Bank of the United States. This greater use of silver and gold, for common purposes, and small payments, I have thought to be a desirable object, as I have often before said.

The next section looks to the winding up of the affairs of the bank; and it provides that, at any time within the last three years of its continuance, its directors may divide, among the stockholders, any portion of the capital which they may have withdrawn from active operation. The remaining sections are only such as are formal and necessary; one continues the acts of Congress connected with the bank, such as those providing for forging its notes; and the other requires the acceptance of this bill by the bank, in order to give it validity and effect.

Such, Mr. President, are the provisions of this bill. They are few and simple:

1. The bank is to be continued for six years.
2. The deposits are to be restored after the 1st of July.
3. Congress is to be at perfect liberty to create any new bank, at any time after March, 1836.
4. The directors, in order to wind up their concerns, may, three years before the six years expire, begin to divide the capital among the stockholders.

Mr. President, this is the measure which I propose; and it is my settled belief that, if we cannot carry this, we can carry nothing.

I have thus, sir, stated my opinions, and discharged my duty. I see the country laboring, and struggling, and panting under an enormous political evil. I propose a remedy which I am sure will produce relief, if it be adopted, and which seems to me most likely to obtain support. And now, sir, I put it to every member of Congress, how he can resist this measure, unless by proposing another and a better. Who among the agents and servants of the people assembled in these Houses, is prepared, in the present distressed state of the country, to say, that he will oppose every thing, and propose nothing? For one, sir, I can only say, that I have been driven to this proposition by an irresistible impulse of obligation to the country. If I had been suddenly called to my great reckoning in another world, I should have felt that one duty was left unattempted, if I had no measure to recommend, no expedient to propose, no hope to hold out to this suffering community.

WEDNESDAY, March 19.

Public Distress.

Mr. TOMLINSON presented the memorial of the merchants, manufacturers, and other citizens of the town of Bridgeport, in Connecticut, relative to the embarrassments and distress consequent on the course of the Executive respecting the currency and banking institutions in the country.

With the memorial, Mr. T. said, he had received a communication from several respectable citizens of that town, authorizing him to state that the memorial is subscribed by 380 persons, who are entitled to vote at the town and State elections; and that there are but a few more than 400 legal voters residing in the town.

For the information of the Senate, it may not be improper, said he, to state, that, notwithstanding the fluctuations of trade heretofore, Bridgeport has steadily and rapidly advanced in wealth and improvement. At the commencement of the present century, it was comparatively but an inconsiderable village. Now, the borough of that name exceeds in population any other port in that important and populous section of the State. It not only participates largely in the trade and business of the productive and rich county of Fairfield, but extends its

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commercial relations into the very important and prosperous counties adjoining it.

Mr. T. moved that the memorial be referred to the Committee on Finance and printed; which was ordered.

Philadelphia Mechanics' Memorial.

Mr. McKean said, a committee of sixteen gentlemen, mechanics of Philadelphia, consisting of cabinet-makers, pianoforte-makers, chair-makers, upholsterers, fancy furnishers, fringe-makers, carvers, gilders, varnishers, turners, lamp-makers, coach-makers, and others engaged in furnishing materials for the same, have charged me with a memorial, to be presented to the Senate, signed, as I am informed, by about seven hundred of these meritorious citizens. They state that they have been steadily pursuing their various occupations, and endeavoring to fulfil their duties as mechanics and citizens, without interfering in political affairs further than simply exercising their rights at the polls; and that, up to the period of the removal of the public deposits from the United States Bank, their various branches of business were becoming increasingly prosperous; they were thankfully enjoying the fruits of honest industry, and indulging a prospect of their continued increase. But, since the event alluded to, they have experienced an almost total prostration of their business, which, if not averted soon, must involve them and their families in utter ruin; and that they can ascribe their present distress to no other cause than the removal of the deposits, and earnestly request their immediate restoration.

New Orleans Memorial.

Mr. WAGGAMAN presented resolutions and a memorial adopted at a meeting of the merchants of New Orleans. On the presentation of which Mr. W. said:

Mr. President: I hold in my hand a document containing sundry resolutions and a memorial, adopted at one of the largest public meetings ever convened in New Orleans, on any preceding occasion, which it becomes my duty, as the co-representative of Louisiana on this floor, to communicate to the Senate. And I will also take leave to observe, though it may be disagreeable to the ears of some gentlemen, that that meeting was composed of every description of persons, without distinction as to party, Jackson men and anti-Jackson men, administration and anti-administration men, supporters and opponents of the present administration. The proceedings had at that meeting were signed by its chairman, Mr. Oakley, who has been, from the earliest period of the aspirations of the present Chief Magistrate for political power and high official station, down to the present moment, through good and through evil report, one of his most ardent, active, and zealous friends, spending more money, and consuming more time in aid of the cause, than any other man known to me in that State. Sir, I

say it in no term of reproach to that gentleman, but am happy to avail myself of this public occasion to bear testimony in favor of his most excellent character, believing, as I do, that whatever he has done in partisan acts in aid of this administration, has been done with the purest and most patriotic motives. I have thought it proper to be thus minute and circumstantial, in order to show that the meeting was not devised and got up in aid of party views and party purposes, but wholly and exclusively for the intents and purposes set forth in the memorial.

These resolutions and memorial state facts that no declarations, however bold and reckless, can deny; nor arguments, however eloquent, ingenious, and artfully woven, can weaken. It states the deep and abiding distress of the people, I mean the agricultural and commercial people of Louisiana, who, notwithstanding their heretofore successful enterprise, have not, in this dark hour of pecuniary distress and want, been able to shield themselves from its ruinous consequences. Their rich and fertile lands, aided as they have been by the hands of their skilful and industrious cultivators, have in vain yielded forth their accustomed rich fruits and abundant harvests; they remain without demand, or are sold at prices far and ruinously below the reasonable and just expectations of those, by the sweat of whose brows, and the toil of whose hands, they have been produced.

THURSDAY, March 20.

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On motion of Mr. WEBSTER, the Senate resumed the consideration of his motion for leave to introduce a bill to continue, for a limited time, the charter of the Bank of the United States.

Mr. WRIGHT said it was not his purpose to enter into a discussion of the great principles involved in the passage of the bill upon the table. His object in obtaining the floor, upon a former day, had been to reply to some things which had fallen from the honorable Senator from Virginia, (Mr. LIGER,) and to notice a few remarks made by the honorable chairman of the Committee on Finance, (Mr. WEBSTER,) when he offered the bill. He must, he said, however, be permitted to congratulate himself that the Senate had now reached what he had, from the commencement of the session, considered the true question before Congress and the country—the question of “bank or no bank;” the question whether the present Bank of the United States should be rechartered for any period of time, or whether any national bank should be created by the authority of Congress, after the expiration of the charter of the present bank. These questions, he considered, must be involved in the present discussion, and he must be permitted farther to congratulate himself that, as to the constitutional power of Congress to pass the bill now under

consideration, or any bill to charter a bank similar to that now existing, the opinions of the honorable Senator from Virginia (Mr. LEIGH) and his own perfectly coincided. The honorable Senator did not believe, nor did he himself believe, that Congress possessed any such power, and therefore, so far as their action was concerned, no such bank could exist after the year 1836, when the charter of the present bank will expire by its own limitation. Mr. W. said he would not attempt to repeat the arguments which the honorable Senator had so happily used, in his clear and strong manner, to establish the correctness of their opinions. Any attempt by him to do so might weaken what had been so well and so concisely said by the Senator; but he would detain the Senate to add one view of this subject, which had not been taken by the honorable Senator, and which had struck his mind with great force. Upon all former occasions, when the power of Congress to charter a bank had been under discussion, reference had been made to that clause of the constitution which reads in the following words:

"The Congress shall have power to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this constitution in the Government of the United States, or in any department or office thereof."

All, Mr. W. said, as he understood, had formerly argued that this necessity must be shown before the power could be inferred, and he had also understood that all had admitted that this constitutional necessity must be a necessity growing out of the wants of the Government, and not out of the wants of business; that it must be a necessity arising from the collection, distribution, and disbursement of the public revenues, not out of the wants of the commercial interests, the mercantile interests, the manufacturing interests, or any other branch of labor and enterprise; that it must be a necessity growing out of the wants of the public Treasury and the administration of the finances of the country, and not out of the wants of the individual citizens. What, Mr. President, (said Mr. W.,) have we heard urged as constituting this necessity, in the whole course of this debate, in all the various shapes and forms in which it has been carried on in this body for now about four months? The wants of ordinary business, the demand for capital, the regulation of exchanges, the importance of a uniform paper currency; not the wants of the Treasury. These last, sir, have not been mentioned in the comparison, while the former are made the indisputable evidence that a bank is necessary. Sir, said Mr. W., the wants of the Treasury, and the wants of the Treasury alone, can constitute this constitutional necessity. The wants of business cannot be the legitimate subjects of consideration for those who seek to derive the power to charter a bank from this provision of the constitution. He said he was one of those who did not believe

that any power whatever was granted to Congress by this provision, much less the power to charter a bank; but he must believe that those who did infer such a power from it, would, at least, admit the necessity must be such a one as the constitution contemplated, and that the constitution could not have contemplated any other than a necessity connected with the collection, distribution, and disbursement of the revenues of the Government, not the ordinary necessities of trade and exchange. These last were the wants which gentlemen feared the State banks could not supply, though they were willing to engage to collect and distribute the public moneys upon the same terms that the United States Bank had done it. He begged the Senate to look at this view of the case before they permitted a necessity, imaginary or real, unknown to the constitution, to influence their action.

We are told, Mr. President, by the honorable Senator, said Mr. W., that we must have a national bank; and what, sir, is the reason urged, as conclusive upon us, to establish the position? It is the existence of the present pressure upon the money market of the country, said to exist, in contemplation of the winding up of the present bank. Sir, said Mr. W., this proves to me merely, not that we want a bank, but that we have a bank. Whence does the distress and pressure complained of proceed? It, no doubt, has its origin in a complication of causes, among which a general system of over-trading and the change of the revenue laws are among the most important; but I cannot doubt that by far the most powerful cause, at this time in operation, is the hostile attitude which the Bank of the United States has thought it for her interest to assume towards the State banks. We have it in evidence among the documents of Congress, upon the oath of the chief officer of the bank, Mr. Biddle himself, that that institution has the power to crush the State banks at pleasure; that they exist by its clemency alone, and not because it has not the power to shut their doors. The evidences of a disposition to exert that power, have, for the last few months, been strong and numerous. Have we not heard it predicted, Mr. President, from all sides of this chamber, that the State banks would be compelled to stop specie payments within a short period of time? Have we not seen the bank presses calling on the community to make runs upon those banks, telling the poor laborer who had a five dollar note of a State bank to call and get the specie for it before it became a valueless rag in his pocket? Can these indications have been mistaken, sir? In the State which I have the honor in part to represent here, I am happy to know that they have not either been mistaken or disregarded; and I hope I may not find myself mistaken in the belief, that the banks of that State are prepared to meet the blow intended for them. From the latest advices I have received, I am authorized to sup-

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pose that they have withdrawn from circulation and redeemed from \$4,000,000 to \$5,000,000 of their notes, within the last sixty or seventy days. The effect of this extensive curtailment upon the merchants, and, indeed, upon all classes of the community, must be severe, but self-protection and self-preservation require the course at the hands of the banks, and they have no volition. It would be madness for them not to prepare for their defence, when they are publicly told that this immense moneyed power, with \$35,000,000 of capital at command, is about to aim a deadly blow at them; when they know it has vaunted its power over them, and proved upon oath that its forbearance was the tenure by which they held their existence. The banks, then, cannot extend themselves while this all-powerful enemy stands ready to take the first advantage of their exposure, and to push it to their ruin. Sir, is there any other cause for this rapid curtailment, and this close defensive position assumed by the State banks? I know of none. There can be none. There is no peculiar demand for specie growing out of the state of trade and the condition of exchange; but, on the contrary, the reverse is to a greater extent true than it has been at any former period of our history. Specie is, at this moment, abundant in the country, and its flow is to, not from us.

I cannot, then, be mistaken when I say, that if the Bank of the United States would cease its efforts for, and its hopes of, a re-existence, and would endeavor to perform its duty to the country, by closing its affairs with as little injury as possible to any individual or public interest, the State banks would be able to extend their loans, confidence would be restored, and the pressure upon the money market would soon cease. Apprehension, a just apprehension of the hostile movements of this great institution, is the most powerful cause of the present scarcity of money. This scarcity must exist so long as this apprehension continues. How, then, is it to be allayed, would seem to be the pertinent inquiry? The honorable Senator from Massachusetts answers us by the bill upon your table. Recharter the bank; appease the monster by prolonging its existence and increasing its power! I say, No, sir; but act promptly and refuse its wish; destroy its hope of a recharter, and you destroy its inducement to be hostile to the State institutions. A different interest, the interest of its stockholders to wind up its affairs as profitably to themselves as possible, becomes its ruling object, and will direct its policy. The more prosperous the country, the more plenty the money of other institutions, the more easily and safely can this object be accomplished; and every hope of a continued existence being destroyed, that this will be the object of the bank is as certain as that its moneyed interest governs a moneyed incorporation. Mr. President, this is unquestionably the opinion of the country. Look, sir, at the files of memorials upon your

table, and however widely he may differ as to their views of the bank, they all hold to you this language, "Act speedily, and finally settle the question."

But we are told, sir, that the country cannot sustain the winding up of the affairs of this bank. Is this so? What does experience teach us upon this subject? The old Bank of the United States, within four months of the close of its charter, was more extended in proportion to the amount of its capital than the present bank is at this moment, and still it is almost two years to the close of its charter. The old bank struggled as this does for a re-existence; the country was then alarmed, memorials in favor of the bank were then, as now, piled upon the tables of the members of Congress; the cries of distress rung through these halls then as distinctly as they now do; nay, more, gentlemen were then sent here from the commercial cities to be examined upon oath, before the committees of Congress, to prove the existence and the extent of the distress; business was then in a state of the utmost depression in all parts of the Union; commerce was literally suspended by the restrictive measures of the Government; trade was dull beyond any former example; property of all kinds was unusually depressed in price; and the country was on the eve of a war with the most powerful nation in the world. Still Congress was unmoved, and the old bank was not rechartered. Such is the history of that period, and, with the final action of Congress, all knowledge of the distress ceased. Who has ever heard of disasters to the business of the country proceeding from the winding up of the old bank? I, sir, can find no trace of any such consequences. I do find that, in a period of about eighteen months after the expiration of the charter, the bank disposed of its other obligations, and divided to its stockholders about eighty-eight per cent. upon their stock.

It is now admitted on all hands, that the country is rich and prosperous in an unusual degree; property of all kinds is abundant; commerce is free and extensive and flourishing, and business of every description is healthful and vigorous. If, then, we cannot, in this condition of things, sustain the closing of the affairs of this great moneyed incorporation, it is safe to assume that the country will never see the time when it can do it. Grant it longer life and deeper root, and in vain shall we try in future to shake it from us. It will dictate its own terms, and command its own existence. Indeed, Mr. President, the whole tendency of the honorable Senator's argument, seemed to me to be to prove the necessity of a perpetual bank of this description, and we have been repeatedly told, during the debate of the last three months, that this free, and rich, and prosperous country, cannot get on without a great moneyed power of this description to regulate its affairs. The bill before the Senate proposes to repeal the monopolizing provision

in the existing charter, and the honorable Senator tells us that this is to be done that Congress may, within the six years over which this is to extend the life of the present bank, establish a new bank to take its place, and into which the affairs of the old may be transferred, so as to be finally closed without a shock to the country. Sir, this is not the relief I seek. My object is the entire discontinuance and eradication of this or any similar institution. We are told the distresses of the country will not permit this now. When, sir, will it ever permit it better? When will the time come that this odious institution can be finally closed with less distress than now? Never, while cupidity obeys its fixed laws.

This distress, Mr. President, did not exist when we left our homes; we heard not of it then; it commenced with the commencement of our debates here; and I doubt not it will end when our debates end, and our final action is known, whatever may be the result to which we shall arrive. It must necessarily be temporary; and it does not prove to my mind the necessity of a bank, but the mischiefs a bank may produce. I care not whether it be or be not in the power of the bank to ameliorate the evils now complained of. That it can cause them in any manner, is proof that, if the disposition exist, it can cause them at pleasure, and this very fact is the strongest evidence, to my mind, that no institution, with such a power, ought to exist in this country.

Sir, the subject of our present action involves two great principles: one of constitutional power, and one of governmental expediency. Upon neither should our action be governed solely by considerations of temporary derangement and distress in the money market. Revulsions in trade and business and pecuniary affairs will happen. They must be temporary; the country will restore itself, and money will again be plenty; but the settlement of important principles must involve consequences of an enduring character—consequences which will exert an influence for good or evil, through all time.

FRIDAY, March 21.

Public Distress.

Mr. CLAY said he had been desirous for some days past of an opportunity of presenting to the Senate a memorial, but had not been able to do it, in consequence of the intervention of other business. It was a memorial signed by upwards of three thousand persons, clerks of mercantile men, and others engaged in trade, in the city of New York. The memorial came from a class of men embracing almost every variety of situation; men, old and young, married men and single men. The majority of these men are without capital or property of any kind, other than that probity, industry, and public confidence, which obtains for them

business, and the others are men of small capital. The memorial came from a class of men which, he was informed, was highly intelligent and respectable. They did not pronounce their opinion on the causes which have produced the distress and pecuniary embarrassment, of which daily and hourly such afflicting evidence is received; but they bear testimony to the existence of that distress, of which nobody doubts. They pray Congress to afford such remedy as the urgency of the case demands. The paper was not long, Mr. C. said, and he would take the liberty to read it for the information of the Senate.

[Here Mr. CLAY read the memorial.]

While up, Mr. C. said, as it was somewhat difficult, owing to the number of petitions in the hands of gentlemen, to get an opportunity to present one to the Senate, he would present another petition on the same subject, and would move that both the memorials be referred at the same time. This second memorial was from a large number of traders from as many as ten different States in the valley of the Mississippi, who happened lately to be in Philadelphia where they were called in the course of their business, for the purpose of laying in their stock of goods for the season. These men were engaged in every variety of trade, were of every political party, though they give no political character to their memorial. Many of these gentlemen came from his, Mr. C.'s, own State, and with many of them he was well acquainted; and, from all the information in his possession, he was gratified to say, they were intelligent, highly respectable, and of character and standing in society. They were men whose course of business makes them well informed of the condition of affairs in the section of country they come from. They find that the state of exchange greatly embarrasses their business, and makes them exceedingly anxious for the future. The meeting was altogether promiscuous, was assembled accidentally, and the memorial was agreed on with perfect unanimity of sentiment. As it was, like the New York memorial, also a short one, Mr. C. said he would also take the liberty of reading it himself.

[Mr. CLAY then read the memorial.]

Mr. C. moved that the memorials be referred to the Committee on Finance, and be printed; which motion was carried.

New Jersey Memorials.

Mr. SOUTHWARD presented five memorials: one from three of the banks of New Jersey, and the others from the counties of Monmouth, Gloucester, and Hunterdon, in the same State, complaining of the pecuniary embarrassments of the country, which they attribute to the removal of the public deposits from the Bank of the United States, and praying for their restoration, with such other measure of relief as Congress may devise. The memorialists also express the opinion that the instructions given by the legis-

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lature of New Jersey to their Senators in Congress, were not warranted by the sense of the people of that State, a vast majority of whom were opposed to them.

On the presentation of these memorials, Mr. S. spoke for nearly an hour in commenting upon their contents, showing the number and respectability of the signers, enforcing their prayer for the relief which Congress alone could give.

Maryland Memorials.

Mr. KENT said he had been requested to present to the Senate, memorials from four banks located in the western part of the State of Maryland, three of them in Frederick city, and one in Williamsport, in Washington county. Those from Frederick city were silent on the subject of the removal of the deposits, though decidedly in favor of the recharter of the Bank of the United States.

These memorials are couched in respectful language, and I beg leave to state to the Senate that the subscribers to them are gentlemen of acknowledged intelligence and of great worth and respectability of character; possessing much experience in their line of business, intimately acquainted with the interests of their surrounding country, and the feelings that pervade its population. These memorialists have been conducting for years banks of as much solidity as any in the State, located in a rich and fertile country, in the midst of a population proverbial for their skilful, unremitted industry and great frugality; and be assured, Mr. President, they would scorn to come here with any complaints, either on their own account or that of their enterprising countrymen, unless they had been made to feel the pressure that now overshadows our land, and deeply feel it too.

Mr. K. moved that the memorials be referred to the Committee on Finance and printed; which was carried.

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The VICE PRESIDENT announced the first special order to be the granting leave to introduce a bill to recharter the Bank of the United States.

Mr. CALHOUN said: I rise in order to avail myself of an early opportunity to express my opinion on the measure proposed by the Senator from Massachusetts, and the questions immediately connected with it, on the ground that, on a subject so immediately connected with the interests of every class in the community, there should be an early declaration of their sentiments by the members of this body, so that all might know what to expect, and on what to calculate.

I shall vote for the motion of the Senator, not because I approve of the measure he proposes, but because I consider it due, in courtesy, to grant leave, unless there be strong reasons to the contrary, which is not the case in this instance; but while I am prepared to vote for

his motion, and, let me add, to do ample justice to his motives for introducing the bill, I cannot approve of the measure he proposes. In every view which I have been able to take, it is objectionable. Among the objections, I place the uncertainty as to its object. It is left perfectly open to conjecture, whether a renewal of the charter is intended, or a mere continuance with the view of affording the bank time to wind up its affairs; and what increases the uncertainty is, if we compare the provisions of the proposed bill with the one or the other of these objects, it is equally unsuited to either. If a renewal of the charter be intended, six years is too short; if a continuance, too long. I, however, state this as a mere minor objection. There is another of far more decisive character; it settles nothing, it leaves every thing unfixed—it perpetuates the present struggle which so injuriously agitates the country—a struggle of bank against bank—of one set of opinions against another; and prolongs the whole, without even an intervening armistice, to the year 1842—a period that covers two Presidential terms, and, by inevitable consequence, running, for two successive Presidential elections, the politics of the country into the bank question, and the bank question into politics, with the mutual corruption which must be engendered; and, during the whole period, keeping the currency of the country, which the public interest requires should have the utmost stability, in a state of uncertainty and fluctuation.

But why should I pursue the objections to the plan proposed by the Senator from Massachusetts, (Mr. WEBSTER.) He himself acknowledges the measure to be defective, and that he would prefer one of a more permanent character. He has not proposed this as the best measure, but has brought it forward under a supposed necessity—under the impression that something must be done—something prompt and immediate—to relieve the existing distress which overspreads the land. I concur with him in relation to the distress—that it is deep and extensive; that it fell upon us suddenly, and in the midst of prosperity almost unexampled; that it is daily consigning hundreds to poverty and misery, blasting the hopes of the enterprising, taking employment and bread from the laborer, and working a fearful change in the relative condition of the moneyed man and the money dealer on one side, and the man of business and the man of property on the other—taking up the former rapidly to the top of the wheel, whilst it is whirling the latter, with equal rapidity, to the bottom. While I thus agree with the Senator as to the distress, I am also sensible that there are great public emergencies in which no permanent relief can be afforded, and when the wisest are obliged to resort to expedients; to palliate and to temporize in order to gain time, with a view to apply a more effectual remedy; but there are also emergencies of precisely the opposite character; when the best and most permanent is the only practical mea-

ure; and when mere expedients tend but to distract, to divide and confound, and thereby to delay or defeat all relief; and such, viewed in all its relations and bearing, I consider the present; and that the Senator from Massachusetts has not also so considered it, I attribute to the fact that, of the two questions blended in the subject under consideration, he has given an undue prominence to that which has by far the least relative importance; I mean the questions of the bank and of the currency. As a mere bank question, as viewed by the Senator, it would be a matter of but little importance whether the renewal should be for six years, or for a longer period; and a preference might very probably be given to one or the other as it might be supposed most likely to succeed; but I must say, that, in my opinion, in selecting the period of six years, he has taken that which will be much less likely to succeed than one of a reasonable and proper duration. But had he turned his view to the other and more prominent question involved; had he regarded the question as a question of currency, and that the great point was to give it uniformity, permanency, and safety; that in effecting these essential objects the bank is a mere subordinate agent, to be used or not to be used, and to be modified as to its duration and other provisions wholly in reference to the higher question of the currency, I cannot think he would ever have proposed the measure which he has brought forward, which leaves, as I have already said, every thing connected with the subject in a state of uncertainty and fluctuation.

All feel that the currency is a delicate subject, requiring to be touched with the utmost caution; but in order that it may be seen, as well as felt, why it is so delicate, why alight touches, either in depressing or elevating it, agitate and convulse the whole community, I will pause to explain the cause. If we take the aggregate property of a community, that which forms the currency, constitutes, in value, a very small proportion of the whole. What this proportion is in our country and other commercial and trading communities, is somewhat uncertain. I speak conjecturally in fixing it as one to twenty-five or thirty, though I presume that is not far from the truth; and yet this small proportion of the property of the community regulates the value of all the rest, and forms the medium of circulation by which all its exchanges are effected; bearing, in this respect, a striking similarity, considering the diversity of the subjects, to the blood in the human or animal system.

If we turn our attention to the laws which govern the circulation, we shall find one of the most important to be, that, as the circulation is decreased or increased, the rest of the property will, all other circumstances remaining the same, be decreased or increased in value exactly in the same proportion. To illustrate: If a community should have an aggregate amount of property of thirty-one millions of dollars, of which one million constitutes its currency;

if that one million be reduced one-tenth part, that is to say, one hundred thousand dollars, the value of the rest will be reduced in like manner one-tenth part, that is, three millions of dollars. And here a very important fact discloses itself, which explains why the currency should be touched with such delicacy, and why stability and uniformity are such essential qualities; I mean, that a small absolute reduction of the currency makes a great absolute reduction of the value of the entire property of the community, as we see in the case supposed; where a reduction of one hundred thousand dollars in the currency reduces the aggregate value of property three millions of dollars, a sum thirty times greater than the reduction of the currency. From this results an important consideration. If we suppose the entire currency to be in the hands of one portion of the community, and the property in the hands of the other portion, the former, by having the currency in their possession, might control the value of all the property of the community, and possess themselves of it at their pleasure. Take the case already selected, and suppose that those who hold the currency diminish it one-half by abstracting it from circulation; the effect of which would be, to reduce the circulation to five hundred thousand dollars; the value of property would also be reduced one-half, that is, fifteen millions of dollars. Let the process be reversed, and the money abstracted gradually restored to circulation, and the value of the property would again be increased to thirty millions. It must be obvious, that by alternating these processes, and purchasing at the point of the greatest depression when the circulation is the least, and selling at the point of the greatest elevation when it is the fullest, the supposed moneyed class, who could at pleasure increase or diminish the circulation, by abstracting or restoring it, might also at pleasure control the entire property of the country. Let it be ever borne in mind, that the exchangeable value of the circulating medium, compared with the property and the business of the community, remains fixed, and can never be diminished or increased by increasing or diminishing its quantity; while, on the contrary, the exchangeable value of the property compared to the currency, must increase or decrease with every addition or diminution of the latter. It results from this that there is a dangerous antagonist relation between those who hold or command the currency and the rest of the community; but, fortunately for the country, the holders of property and of the currency are so blended as not to constitute separate classes. Yet, it is worthy of remark—it deserves strongly to attract the attention of those who have charge of the public affairs—that under the operation of the banking system, and that particular distribution of property existing in the shape of credit or stocks, public and private, which so strikingly distinguishes modern society from all that preceded it,

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there is a strong tendency to create a separate moneyed interest, accompanied with all the dangers which must necessarily result from such separation, which deserves to be most carefully watched and resisted.

With these impressions, and entertaining a deep conviction that an unfixed, unstable, and fluctuating currency is to be ranked among the most fruitful sources of evil, whether viewed politically or in reference to the business transactions of the country, I cannot give my consent to any measure that does not place the currency on a solid foundation. If I thought this determination would delay the relief so necessary to mitigate the present calamity, it would be to me a subject of the deepest regret. I feel that sympathy, which I trust I ought, for the suffering of so many of my fellow-citizens, who see their hopes daily withered; I, however, console myself with the reflection that delay will not be the result, but, on the contrary, relief will be hastened, by the view which I take of the subject. I hold it impossible that any thing can be effected regarding the subject as a mere bank question. Viewed in that light, the opinions of this House, and of the other branch of Congress, are probably definitively made up. In the Senate, it is known that we have three parties, whose views, considering it as a bank question, appear to be irreconcilable. All hope, then, of relief, must centre in taking a more elevated view, and in considering it in its true light, as a subject of currency. Thus regarded, I shall be surprised if, on full investigation, there will not appear remarkable coincidences of opinion, even between those whose views, on a slight inspection, would seem to be contradictory. Let us then proceed to the investigation of the subject under the aspect which I have proposed.

What, then, is the currency of the United States? What its present state and condition? These are the questions which I propose now to consider, with a view of ascertaining what is the disease? what the remedy, and what the means of applying it, that may be necessary to restore our currency to a sound condition?

The legal currency of this country—that in which alone debts can be discharged according to law, are certain gold, silver, and copper coins, coined at the mint of the United States, and issued by their authority, under an express provision of the constitution. Such is the law. What now are the facts? That the currency consists almost exclusively of bank notes; gold having entirely disappeared, and silver in a great measure, expelled by banks instituted by twenty-five distinct and independent powers, and notes issued under the authority of the direction of those institutions. They are, in point of fact, the mint of the United States. They coin the actual money, (for such we must call bank notes,) and regulate its issue and consequently its value. If we inquire as to their number, the amount of their issue, and other circumstances calculated to show their

actual condition, we shall find that, so rapid has been their increase, and so various their changes, that no accurate information can be had. According to the latest and best that I have been able to ascertain, they number at least four hundred and fifty, with a capital of not less than one hundred and forty-five millions of dollars, with an issue exceeding seventy millions; and the whole of this immense fabric standing upon a metallic currency of less than fifteen millions of dollars, of which the greater part is held by the Bank of the United States. If we compare the notes in circulation with the metallic currency in their vaults, we shall find the proportion about six to one; and if we compare the latter with the demands that may be made upon the banks, we shall find that the proportion is about one to eleven. If we examine the tendency of the system at this moment, we shall find that it is on the increase—rapidly on the increase. There is now pending a project of a ten million bank before the legislature of New York; but recently one of five millions was established in Kentucky; within a short period one of a large capital was established in Tennessee; besides others in agitation in several of the other States. [Here Mr. PORTER, of Louisiana, said that one of eleven millions had just been established in that State.]

This increase is not accidental. It may be laid down as a law, that where two currencies are permitted to circulate in any country, one of a cheap and the other of a dear material, the former necessarily intends to grow upon the latter, and will ultimately expel it from circulation, unless its tendency to increase be restrained by a powerful and efficient check. Experience tests the truth of this remark, as the history of the banking system clearly illustrates. The Senator from Massachusetts truly said that the Bank of England was derived from that of Amsterdam, as ours in turn are from that of England. Throughout its progress, the truth of what I have stated to be a law of the system is strongly evinced. The Bank of Amsterdam was merely a bank of deposit—a storehouse for the safe keeping of the bullion and precious metals brought into that commercial metropolis, through all the channels of its widely-extended trade. It was placed under the custody of the city authorities: and, on the deposit, a certificate was issued as evidence of the fact, which was transferable, so as to entitle the holder to demand the return. An important fact was soon disclosed; that a large portion of the deposits might be withdrawn, and that the residue would be sufficient to meet the returning certificates; or, what is the same in effect, that certificates might be issued without making a deposit. This suggested the idea of a bank of discount as well as deposit. The fact thus disclosed fell too much in with the genius of the system to be lost, and, accordingly, when transplanted to England, it suggested the idea of a bank of discount and of deposit; the very essence of which form of banking, that

on which their profit depends, consists in issuing a greater amount of notes than it has of specie in its vaults. But the system is regularly progressing under the impulse of the laws that govern it, from its present form to a mere paper machine—a machine for fabricating and issuing notes, not convertible into specie. Already has it once reached this condition, both in England and the United States, and from which it has been forced back, in both, to a redemption of its notes, with great difficulty.

Such is the strong tendency of our banks to terminate their career in the paper system—in an open suspension of specie payment. Whenever that event occurs, the progress to convulsion and revolution will be rapid. The currency will become local, and each State will have a powerful interest to depreciate its currency more rapidly than its neighbor, as the means, at the same time, of exempting itself from the taxes of the Government and drawing the commerce of the country to its ports. This was strongly exemplified after the suspension of specie payments during the late war, when the depreciation made the most rapid progress, till checked by the establishment of the present Bank of the United States, and when the foreign trade of the country was as rapidly converging to the point of the greatest depreciation, with a view of exemption from duties, by paying in the debased currency of the place.

What, then, is the disease which afflicts the system; what the remedy; and what the means of applying it? These are the questions which I shall next proceed to consider. What I have already stated points out the disease. It consists in a great and growing disproportion between the metallic and paper circulation of the country, effected through the instrumentality of the banks, a disproportion daily and hourly increasing, under the impulse of most powerful causes, which are rapidly accelerating the country to that state of convulsion and revolution which I have indicated. The remedy is to arrest its future progress, and to diminish the existing disproportion—to increase the metals, and to diminish the paper—advancing till the country shall be restored to a sound, safe, and settled condition. On these two points all must be agreed. There is no man of any party, capable of reflecting, and who will take the pains to inform himself, but must agree that our currency is in a dangerous condition, and that the danger is increasing; nor is there any one who can doubt that the only safe and effectual remedy is to diminish the disproportion to which I have referred. Here the extremes unite; the Senator from Missouri, (Mr. BEN-ROUN,) who is the open and avowed advocate of a pure metallic currency, and the Senator from Massachusetts, (Mr. WEBSTER,) who stands here as the able and strenuous advocate of the banking system, are on this point united, and must move from it in the same direction, though it may be the design of the one to go through,

and of the other to halt after a moderate advance.

No one can be more sensible than I am of the responsibility that must be incurred in proposing measures on questions of so much magnitude, and which, in so distracted a state of the public mind, must affect, seriously, great and influential interests. But this is no time to shun responsibility. The danger is great and menacing, and delay hazardous, if not ruinous. While, however, I would not shun, I have not sought the responsibility. I have waited for others, and had any one proposed an adequate remedy, I would have remained silent. And here, said Mr. C., let me express the deep regret which I feel, that the administration, with all that weight of authority which belongs to its power and immense patronage, had not, instead of the deposit question, which has caused such agitation and distress, taken up the great subject of the currency, examined it gravely and deliberately in all its bearings, pointed out its diseased condition, designated the remedy, and proposed some safe, gradual, and effectual means of applying it. Had that course been pursued, my zealous and hearty cooperation would not have been wanting.

Whatever diversity of sentiment there may be as to the means, on one point all must be agreed: nothing effectual can be done; no check interposed to restore or arrest the progress of the system by the action of the States. The reasons already assigned, to prove that banking by one State compels all others to bank, and that the excess of banking in one, in like manner compels all others to like excess, equally demonstrate that it is impossible for the States, acting separately, to interpose any means to prevent the catastrophe which certainly awaits the system, and perhaps the Government itself, unless the great and growing danger to which I refer be timely and effectually arrested. There is no power anywhere, but in this Government—the joint agent of all the States, and through which the concert of the action of the whole can be effected—adequate to this great task. The responsibility is upon us, and upon us alone. The means, if means there be, must be applied by our hands, or not applied at all—a consideration in so great an emergency, and in the presence of such imminent danger, calculated, I would suppose, to dispose all to cooperation, and to allay every party feeling in the heart even of the least patriotic.

What means do we possess, and how can they be applied? If the entire banking system was under the immediate control of the General Government, there would be no difficulty in devising a safe and effectual remedy to restore the equilibrium so desirable between the specie and the paper which compose our currency. But the fact is otherwise. With the exception of the Bank of the United States, all the other banks owe their origin to the authority of the several States, and are under their immediate

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control, which presents the great difficulty experienced in devising the proper means of effecting the remedy which all feel to be so desirable.

Among the means which have been suggested, a Senator from Virginia, not now a member of this body, (Mr. RIVKES,) proposed to apply the taxing power to suppress the circulation of small notes, with a view of diminishing the paper and increasing the specie circulation. The remedy would be simple and effective, but is liable to great objection. The taxing power is odious under any circumstances; it would be doubly so when called into exercise with an overflowing treasury; and still more so, with the necessity of organizing an expensive body of officers to collect a single tax, and that on an inconsiderable subject. But there is another, and of itself a decisive objection. It would be unconstitutional—palpably and dangerously so. All political powers, as I stated on another occasion, are trust powers, and limited in their exercise to the subject and object of the grant. The tax power was granted to raise revenue, for the sole purpose of supplying the necessary means of carrying on the operations of the Government. To pervert this power from the object thus intended by the constitution, to that of repressing the circulation of bank notes, would be to convert it from a revenue into a penal power—a power in its nature and object essentially different from that intended to be granted in the constitution; and a power which in its full extension, if once admitted, would be sufficient of itself to give an entire control to this Government over the property and the pursuits of the community, and thus concentrate and consolidate the entire power of the system in this Government.

What, then, Mr. C. inquired, what other means do we possess, of sufficient efficacy, in combination with those to which I have referred, to arrest the farther progress and correct the disordered state of the currency? This is the deeply important question, and here some division of opinion must be expected, however united we may be, as I trust we are thus far, on all other points. I intend to meet this question explicitly and directly, without reservation or concealment.

After a full survey of the whole subject, I see none—I can conjecture no means of extricating the country from its present danger, and to arrest its farther increase, but a bank—the agency of which, in some form, or under some authority, is indispensable. The country has been brought into the present diseased state of the currency by banks, and must be extricated by their agency. We must, in a word, use a bank to unbank the banks, to the extent that may be necessary to restore a safe and stable currency—just as we apply snow to a frozen limb, in order to restore vitality and circulation, or hold up a burn to the flame to extract the inflammation. All must see that it is impossible to suppress the banking system at once. It must continue for a time. Its great-

est enemies and the advocates of an exclusive specie circulation, must make it a part of their system to tolerate the banks for a longer or a shorter period. To suppress them at once, would, if it were possible, work a greater revolution, a greater change in the relative condition of the various classes of the community, than would the conquest of the country by a savage enemy. What, then, must be done? I answer, a new and safe system must gradually grow up under, and replace, the old; imitating, in this respect, the beautiful process which we sometimes see, of a wounded or diseased part, in a living organic body, gradually superseded by the healing process of nature.

How is this to be effected? How is a bank to be used as the means of correcting the excess of the banking system? And what bank is to be selected as the agent to effect this salutary change? I know, said Mr. C., that a diversity of opinion will be found to exist, as to the agent to be selected, among those who agree on every other point, and who, in particular, agree on the necessity of using some bank as the means of effecting the object intended; one preferring a simple recharter of the existing bank—another, the charter of a new Bank of the United States—a third, a new bank ingrafted upon the old—and a fourth, the use of the State banks, as the agent. I wish, said Mr. C., to leave all these as open questions, to be carefully surveyed and compared with each other, calmly and dispassionately, without prejudice or party feeling; and that to be selected which, on the whole, shall appear to be best—the most safe; the most efficient; the most prompt in application, and the least liable to constitutional objection. It would, however, be wanting in candor on my part, not to declare that my impression is, that a new Bank of the United States, ingrafted upon the old, will be found, under all the circumstances of the case, to combine the greatest advantages, and to be liable to the fewest objections; but this impression is not so firmly fixed as to be inconsistent with a calm review of the whole ground, or to prevent my yielding to the conviction of reason, should the result of such review prove that any other is preferable. Among its peculiar recommendations, may be ranked the consideration, that while it would afford the means of a prompt and effectual application for mitigating and finally removing the existing distress, it would, at the same time, open to the whole community a fair opportunity of participation in the advantages of the institution, be they what they may.

When Mr. CALHOUN had concluded—

Mr. BENTON expressed his satisfaction that the Senator from South Carolina had restored the debate to the elevation that belonged to the Senate; he did not mean to descend from that elevation, not of sentiment, thought, and style, to which he had no pretension; but in the mode of conducting the debate, descending to no personal or partisan object, but keeping solely in view the great interests of the coun-

try, and the means of accomplishing those interests. Mr. B. said it was now six years since he had begun to oppose the renewal of the charter of this bank, but he had not, until the present moment, found a suitable occasion for showing the people the kind of currency which they were entitled to possess, and probably would possess, on the dissolution of the Bank of the United States. This was a view of the subject which many wished to see, and which he felt bound to give; and which he should proceed to present, with all the brevity and perspicuity of which he was master.

I. In the first place he was one of those who believed that the Government of the United States was intended to be a hard money Government; that it was the intention, and the declaration, of the Constitution of the United States, that the Federal currency should consist of gold and silver; and that there is no power in Congress to issue, or to authorize any company of individuals to issue, any species of Federal paper currency whatsoever.

Every clause in the constitution, said Mr. B., which bears upon the subject of money—every early statute of Congress which interprets the meaning of these clauses—and every historic recollection which refers to them, go hand in hand, in giving to that instrument the meaning which this proposition ascribes to it. The power granted to Congress to coin money is an authority to stamp metallic money, and is not an authority for emitting slips of paper containing promises to pay money. The authority granted to Congress to regulate the value of coin, is an authority to regulate the value of the metallic money, not of paper. The prohibition upon the States against making any thing but gold and silver a legal tender, is a moral prohibition, founded in virtue and honesty, and is just as binding upon the Federal Government as upon the State Governments; and that without a written prohibition; for the difference in the nature of the two Governments is such, that the States may do all things which they are not forbid to do, and the Federal Government can do nothing which it is not authorized by the constitution to do. The power to punish the crime of counterfeiting is limited to the current coin of the United States, and to the securities of the United States, and cannot be extended to the offence of forging paper money, but by that unjustifiable power of construction which founds an implication upon an implication, and hangs one implied power upon another. The word currency is not in the constitution, nor any word which can be made to cover a circulation of bank notes. Gold and silver is the only thing recognized for money. It is the money, and the only money, of the constitution; and every historic recollection, as well as every phrase in the constitution, and every early statute on the subject of money, confirms that idea. People were sick of paper money about the time that this constitution was formed. The Congress

of the confederation, in the time of the Revolution, had issued a currency of paper money. It had run the full career of that currency. The wreck of two hundred millions of paper dollars lay upon the land. The framers of that constitution worked in the midst of that wreck. They saw the havoc which paper money had made upon the fortunes of individuals, and the morals of the public. They determined to have no more Federal paper money. They created a hard money Government; they intended the new Government to recognize nothing for money but gold and silver, and every word admitted into the constitution, upon the subject of money, defines and establishes that sacred intention.

Legislative enactment, continued Mr. B., came quickly to the aid of constitutional intention and historic recollection. The fifth statute passed at the first session of the first Congress that ever sat under the present constitution, was full and explicit on this head. It defined the kind of money which the Federal Treasury should receive. The enactments of the statute are remarkable for their brevity and comprehension, as well as for their clear interpretation of the constitution, and deserve to be repeated and remembered. They are: That the fees and duties payable to the Federal Government shall be received in gold and silver coin only: the gold coins of France, Spain, Portugal, and England, and all other gold coins of equal fineness, at 89 cents for every pennyweight; the Mexican dollar at 100 cents; the crown of France at 111 cents; and all other silver coins of equal fineness, at 111 cents per ounce. This statute was passed the 30th day of July, 1789—just one month after Congress had commenced the work of legislation. It shows the sense of the Congress composed of the men, in great part, who had framed the constitution, and who, by using the word only, clearly expressed their intention that gold and silver alone was to constitute the currency of the new Government.

In support of this construction of the constitution, Mr. B. referred to the phrase so often used by our most aged and eminent statesmen, that this was intended to be a hard money Government. Yes, said Mr. B., the framers of the constitution were hard money men; but the chief expounder and executor of that constitution was not a hard money man, but a paper system man! a man devoted to the paper system of England, with all the firmness of conviction, and all the fervor of enthusiasm. God forbid, said Mr. B., that I should do injustice to General Hamilton—that I should say, or insinuate, ought to derogate from the just fame of that great man! He has many titles to the gratitude and admiration of his countrymen, and the heart could not be American which could dishonor or disparage his memory. But his ideas of Government did not receive the sanction of general approbation, and of all his political tenets, his attachment to the paper system was most strongly opposed at the time,

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and has produced the most lasting and deplorable results upon the country. In the year 1791, this great man, then Secretary of the Treasury, brought forward his celebrated plan for the support of public credit—that plan which unfolded the entire scheme of the paper system, and immediately developed the great political line between the federalists and the republicans. The establishment of a national bank was the leading and predominant feature of that plan; and the original report of the Secretary, in favor of establishing the bank, contained this fatal and deplorable recommendation:

"The bills and notes of the bank, originally made payable, or which shall have become payable, on demand, in gold and silver coin, shall be receivable in all payments to the United States."

This fatal recommendation became a clause in the charter of the bank. It was transferred from the report of the Secretary to the pages of the statute book; and from that moment the moneyed character of the Federal Government stood changed and reversed. Federal bank notes took the place of hard money; and the whole edifice of the new Government slid, at once, from the solid rock of gold and silver money, on which its framers had placed it, into the troubled and tempestuous ocean of a paper currency.

Mr. B. said it was no answer to this most serious charge of having changed the moneyed character of the Federal Government, and of the whole union, to say that the notes of the Bank of the United States are not made a legal tender between man and man. There was no necessity, he said, for a statute law to that effect; it was sufficient that they were made a legal tender to the Federal Government; the law of necessity, far superior to that of the statute book, would do the rest. A law of tender was not necessary; a forced incidental tender, resulted as an inevitable consequence from the credit and circulation which the Federal Government gave them. Whatever was received at the custom houses, at the land offices, at the post offices, at the marshals' and district attorneys' offices, and in all the various dues to the Federal Government, must be received and will be received by the people. It becomes the actual and practical currency of the land. People must take it, or get nothing; and thus the Federal Government, establishing a paper currency for itself, establishes it also for the States and for the people, and everybody must use it from necessity, whether compelled by law or not.

II. In the next place, Mr. B. believed that the quantity of specie derivable from foreign commerce, added to the quantity of gold derivable from our own mines, were fully sufficient, if not expelled from the country by unwise laws, to furnish the people with an abundant circulation of gold and silver coin, for their common currency, without having recourse to a circulation of small bank notes.

The truth of these propositions, Mr. B. held to be susceptible of complete and ready proof. He spoke first of the domestic supply of native gold, and said that no mines had ever developed more rapidly than these had done, or promised more abundantly than they now do. In the year 1824 they were a spot in the State of North Carolina; they are now a region spreading into six States. In the year 1824 the product was \$5,000; in the last year the product, in coined gold, was \$868,000; in uncoined, as much more; and the product of the present year, computed at two millions, with every prospect of continued and permanent increase. The probability was that these mines alone, in the lapse of a few years, would furnish an abundant supply of gold to establish a plentiful circulation of that metal, if not expelled from the country by unwise laws. But the great source of supply, both for gold and silver, Mr. B. said, was in our foreign commerce. It was this foreign commerce which filled the States with hard money immediately after the close of the revolutionary war, when the domestic mines were unknown; and it is this same foreign commerce which, even now, when Federal laws discourage the importation of foreign coins and compel their exportation, is bringing in an annual supply of seven or eight millions. With an amendment of the laws which now discourage the importation of foreign coins, and compel their exportation, there could be no delay in the rapid accumulation of a sufficient stock of the precious metals to supply the largest circulation which the common business of the country could require.

Mr. B. believed the product of foreign mines, and the quantity of gold and silver now in existence, to be much greater than was commonly supposed; and as a statement of its amount would establish his proposition in favor of an adequate supply of these metals for the common currency of the country, he would state that amount, as he found it calculated in approved works of political economy. He looked to the three great sources of supply: 1. Mexico and South America; 2. Europe and Northern Asia; 3. The coast of Africa. Taking the discovery of the New World as the starting point from which the calculation would commence, and the product was:

1. Mexico and South America, \$6,458,000,000
2. Europe and Northern Asia, - 628,000,000
3. The coast of Africa, - 150,000,000

—making a total product of seven thousand two hundred and thirty-six millions, in the short space of three centuries and a half. To this is to be added the quantity existing at the time the New World was discovered, and which was computed at \$2,800,000,000. Upon all these data the political economists, Mr. B. said, after deducting \$2,000,000,000 for waste and consumption, still computed the actual stock of gold and silver in Europe, Asia, and America, in 1832, at about seven thousand millions of dollars, and that quantity constantly and rapidly increasing.

Mr. B. had no doubt but that the quantity of gold and silver in Europe, Asia, and America, was sufficient to carry on the whole business of the world. He said that States and empires—far greater in wealth and population than any now existing—far superior in public and private magnificence—had carried on all the business of private life, and all the affairs of national government, upon gold and silver alone; and that before the mines of Mexico and Peru were known, or dreamed of. He alluded to the great nations of antiquity—to the Assyrian and Persian empires; to Egypt, Carthage, Rome; to the Grecian republics; the kingdoms of Asia Minor; and to the empire, transcending all these put together—the Saracenic empire of the Caliphs, which, taking for its centre the eastern limit of the Roman world, extended its dominion as far west as Rome had conquered, and farther east than Alexander had marched. These great nations, whose armies crushed empires at a blow, whose monumental edifices still attest their grandeur, had no idea of bank credits and paper money. They used gold and silver alone. Such degenerate phrases as sound currency, paper medium, circulating media, never once sounded in their heroic ears. But why go back, exclaimed Mr. B., to the nations of antiquity? Why quit our own day? Why look beyond the boundaries of Europe? We have seen an empire in our own day, of almost fabulous grandeur and magnificence, carrying on all its vast undertakings upon a currency of gold and silver, without deigning to recognize paper for money. I speak, said Mr. B., of France—great and imperial France—and have my eye upon that first year of the consulate, when a young and victorious general, just transferred from the camp to a council, announced to his astonished ministers that specie payments should commence in France by a given day! in that France which, for so many years, had seen nothing but a miserable currency of depreciated mandates and assignats! The announcement was heard with the inward contempt and open distrust which the whole tribe of hack politicians everywhere feel for the statesmanship of military men. It was followed by the success which it belongs to genius to inspire and to command. Specie payments commenced in France on the day named; and a hard money currency has been the sole currency of France from that day to this.

Mr. B. here cited a passage from a letter of Mr. Gallatin to Mr. Ingham, then Secretary of the Treasury, (Dec. 1829), to confirm what he said of the French currency.

THE PASSAGE.

"For the last twenty-five years the coinage of France has been far greater than that of any other country. I hardly need to observe that this is due to the almost total expulsion of paper as currency. The Bank of France alone issues paper, and none of a denomination less than 500 francs; so that it is used almost exclusively for commercial transac-

tions and remittances, and makes no part of the currency, properly so called, of the country. Paper, as all know, necessarily drives away the precious metals, which will naturally flow to the places where paper is not used. They (the precious metals) are a dearer, but the only safe circulating medium; and no country that will resort to other means, can expect to have a sound and uniform currency."

Such, said Mr. B., is the currency of France; a country whose taxes exceed a thousand millions of francs—whose public and private expenditures require a circulation of three hundred and fifty millions of dollars—and which possesses that circulation, every dollar of it, in gold and silver. After this example, can any one doubt the capacity of the United States to supply itself with specie? Reason and history forbid the doubt. Reason informs us that hard money flows into the vacuum the instant that small bank notes are driven out. France recovered a specie circulation within a year after the consular government refused to recognize paper for money. England recovered a gold circulation of about one hundred millions of dollars within four years after the one and two pound notes were suppressed. Our own country filled up with Spanish milled dollars, French crowns, doubloons, half joes, and guineas, as by magic, at the conclusion of the revolutionary war, and the suppression of the continental bills. The business of the United States would not require above sixty or seventy millions of gold and silver for the common currency of the people, and the basis of large bank notes and bills of exchange. Of that sum more than one-third is now in the country, but not in circulation. The Bank of the United States hoards above ten millions. At the expiration of her charter, in 1836, that sum will be paid out in redemption of its notes—will go into the hands of the people—and, of itself, will nearly double the quantity of silver now in circulation. Our native mines will be yielding, annually, some millions of gold; foreign commerce will be pouring in her accustomed, copious supply; the correction of the erroneous value of gold, the liberal admission of foreign coins, and the suppression of small notes, will invite and retain an adequate metallic currency. The present moment is peculiarly favorable for these measures. Foreign exchanges are now in our favor; silver is coming here, although not current by our laws; both gold and silver would flow in and that immediately, to an immense amount, if raised to their proper value, and put on a proper footing, by our laws. Three days' legislation on these subjects would turn copious supplies of gold and silver into the country, diffuse them through every neighborhood, and astonish gentlemen when they get home at midsummer, at finding hard money where they had left paper. Mr. B. was against a small paper currency, not against large bank notes, and expressed a concurrence in much that was said on

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paper money by the Senator from South Carolina, (Mr. CALHOUN,) though differing so much on the subject of the national bank.

III. In the third place, Mr. B. undertook to affirm, as a proposition free from dispute or contestation, that the value now set upon gold by the laws of the United States, was unjust and erroneous; that these laws had expelled gold from circulation; and that it was the bounden duty of Congress to restore that coin to circulation, by restoring it to its just value. In this he had the pleasure to concur heartily with the Senator from South Carolina, (Mr. CALHOUN.)

That gold was undervalued by the laws of the United States, and expelled from circulation, was a fact, Mr. B. said, which everybody knew; but there was something else which everybody did not know; which few, in reality, had an opportunity of knowing, but which was necessary to be known, to enable the friends of gold to go to work at the right place to effect the recovery of that precious metal which their fathers once possessed—which the subjects of European kings now possess—which the citizens of the young republics to the South all possess—which even the free negroes of San Domingo possess—but which the yeomanry of this America have been deprived of for more than twenty years, and will be deprived of forever, unless they discover the cause of the evil, and apply the remedy to its root.

I have already shown, said Mr. B., that the plan for the support of public credit which General Hamilton brought forward in 1791, was a plan for the establishment of the paper system in our America. We had at that time a gold currency which was circulating freely and fully all over the country. Gold is the antagonist of paper, and, with fair play, will keep a paper currency within just and proper limits. It will keep down the small notes; for no man will carry a five, a ten, or a twenty dollar note in his pocket, when he can get guineas, eagles, half eagles, doubloons, and half joes, to carry in their place. The notes of the new Bank of the United States, which bank formed the leading feature in the plan for the support of public credit, had already derived one undue advantage over gold in being put on a level with it in point of legal tender to the Federal Government, and universal receivability in all payments to that Government: they were now to derive another, and a still greater undue advantage over gold, in the law for the establishment of the national mint; an institution which also formed a feature of the plan for the support of public credit. It is to that plan that we trace the origin of the erroneous valuation of gold, which has banished that metal from the country. Mr. Secretary Hamilton, in his proposition for the establishment of a mint, recommended that the relative value of gold to silver should be fixed at fifteen for one; and that recommendation became the law of the land, and has remained so ever since. At the

same time, the relative value of these metals in Spain and Portugal, and throughout their vast dominions in the new world, whence our principal supplies of gold were derived, was at the rate of sixteen for one; thus making our standard six per cent. below the standard of the countries which chiefly produced gold. It was also below the English standard, and the French standard, and below the standard which prevailed in these States before the adoption of the constitution, and which was actually prevailing in the States at the time that this new proportion of fifteen to one was established.

Mr. B. was ready to admit that there was some nicety requisite in adjusting the relative value of two different kinds of money—gold and silver for example—so as to preserve an exact equipoise between them, and to prevent either from expelling the other. There was some nicety, but no insuperable or even extraordinary difficulty, in making the adjustment. The nicety of the question was aggravated in the year '92, by the difficulty of obtaining exact knowledge of the relative value of these metals, at that time, in France and England; and Mr. Gallatin has since shown that the information which was then relied upon was clearly erroneous. The consequence of any mistake in fixing our standard, was also well known in the year '92. Mr. Secretary Hamilton, in his proposition for the establishment of a mint, expressly declared that the consequence of a mistake in the relative value of the two metals, would be the expulsion of the one that was undervalued. Mr. Jefferson, then Secretary of State, in his contemporaneous report upon foreign coins, declared the same thing. Mr. Robert Morris, financier to the revolutionary Government, in his proposal to establish a mint, in 1782, was equally explicit to the same effect. The delicacy of the question and the consequence of a mistake, were then fully understood forty years ago, when the relative value of gold and silver was fixed at fifteen to one. But, at that time, it unfortunately happened that the paper system, then omnipotent in England, was making its transit to our America; and every thing that would go to establish that system—every thing that would go to sustain the new-born Bank of the United States—that eldest daughter and *spem gregis* of the paper system in America—fell in with the prevailing current, and became incorporated in the federal legislation of the day. Gold, it was well known, was the antagonist of paper; from its intrinsic value, the natural predilection of all mankind for it, its small bulk, and the facility of carrying it about, it would be preferred to paper, either for travelling or keeping in the house; and thus would limit and circumscribe the general circulation of bank notes, and prevent all plea of necessity for issuing smaller notes. Silver, on the contrary, from its inconvenience of transportation, would favor the circulation of bank notes. Hence the birth of the doctrine, that if a mistake was to be committed, it should be on the

side of silver! Mr. Secretary Hamilton declares the existence of this feeling when, in his report upon the establishment of a mint, he says: "It is sometimes observed, that silver ought to be encouraged, rather than gold, as being more conducive to the extension of bank circulation, from the greater difficulty and inconvenience which its greater bulk, compared with its value, occasions in the transportation of it." This passage in the Secretary's report proves the existence of the feeling in favor of silver against gold, and the cause of that feeling. Quotations might be made from the speeches of others to show that they acted upon that feeling; but it is due to Gen. Hamilton to say that he disclaimed such a motive for himself, and expressed a desire to retain both metals in circulation, and even to have a gold dollar.

The proportion of 15 to 1 was established. The 11th section of the act of April, 1792, enacted that every fifteen pounds weight of pure silver, should be equal in value, in all payments, with one pound of pure gold; and so in proportion for less quantities of the respective metals.* This act was the death warrant to the gold currency. The diminished circulation of that coin soon began to be observable, but it was not immediately extinguished. Several circumstances delayed, but could not prevent that catastrophe. 1. The Bank of the United States then issued no note of less denomination than ten dollars, and but few of them. 2. There were but three other banks in the United States, and they issued but few small notes; so that a small note currency did not come directly into conflict with gold. 3. The trade to the lower Mississippi continued to bring up from Natchez and New Orleans, for many years, a large supply of doubloons, and long supplied a gold currency to the new States in the West. Thus, the absence of a small note currency, and the constant arrivals of doubloons from the lower Mississippi, deferred the fate of the gold currency; and it was not until the lapse of near twenty years after the adoption of the erroneous standard of 1792, that the circulation of that metal, both foreign and domestic, became completely and totally extinguished in the United States. The extinction is now complete, and must remain so until the laws are altered.

In making this announcement, and in thus standing forward to expose the error, and to demand the reform of the gold currency, he (Mr. B.) was not setting up for the honors of a first discoverer, or first inventor. Far from it. He was treading in the steps of other, and abler men, who had gone before him. Four Secre-

taries of the Treasury, Gallatin, Dallas, Crawford, Ingham, had, each in their day, pointed out the error in the gold standard, and recommended its correction. Repeated reports of committees, in both Houses of Congress, had done the same thing. Of these reports he would name those of the late Mr. Lowndes, of South Carolina; of Mr. Sanford, late a Senator from New York; of Mr. Campbell P. White, now a Representative from the city of New York. Mr. B. took pleasure in recalling and presenting to public notice, the names of the eminent men who had gone before him in the exploration of this path. It was due to them, now that the good cause seemed to be in the road to success, to yield to them all the honors of first explorers; it was due to the cause also, in this hour of final trial, to give it the high sanction of their names and labors.

Mr. B. would arrest for an instant the current of his remarks, to fix the attention of the Senate upon a reflection which must suggest itself to the minds of all considerate persons. He would ask how it could happen that so many men, and such men as he had named, laboring for so many years, in a cause so just, for an object so beneficial, upon a state of facts so undeniable, could so long and so uniformly fail of success? How could this happen? Sir, exclaimed Mr. B., it happened because the policy of the Bank of the United States required it to happen! The same policy which required gold to be undervalued in 1792, when the first bank was chartered, has required it to be undervalued ever since, now that a second bank has been established; and the same strength which enabled these banks to keep themselves up, also enabled them to keep gold down. This is the answer to the question, and this the secret of the failure of all these eminent men in their laudable efforts to raise gold again to the dignity of money. This is the secret of their failure, and this secret being now known, the road which leads to the reformation of the gold currency lies uncovered and revealed before us; it is the road which leads to the overthrow of the Bank of the United States—to the sepulchre of that institution; for, while that bank lives, or has the hope of life, gold cannot be restored to life. Here then lies the question of the reform of the gold currency. If the bank is defeated, that currency is reformed; if the bank is victorious, gold remains degraded, to continue an article of merchandise in the hands of the bank, and to be expelled from circulation to make room for its five, its ten, and its twenty dollar notes. Let the people then, who are in favor of restoring gold to circulation, go to work in the right place, and put down the power that first put down gold, and which will never suffer that coin to rise while it has power to prevent it.

Mr. B. did not think it necessary to descend and expatiate upon the merits and advantages of a gold currency. These advantages had been too well known, from the earliest ages of the

* "The present rate was the result of information clearly incorrect, respecting the then value of gold and silver in Europe, which was represented as being at the rate of less than 15 to 1, when it was in fact from 15.5 to 15.6: 1. It would be better, at all events, to discontinue altogether the coining of gold than to continue the present system. The average premium on the American gold coins, for the last four and a half years, has been about 5 1-4 on the nominal value."—Mr. Gallatin's letter to Mr. Ingham December, 31 1829.

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world, to be a subject of discussion in the nineteenth century; but, as it was the policy of the paper system to disparage that metal, and as that system, in its forty years' reign over the American people, had nearly destroyed a knowledge of that currency, he would briefly enumerate its leading and prominent advantages. 1. It had an intrinsic value, which gave it currency all over the world, to the full amount of that value, without regard to laws or circumstances. 2. It had a uniformity of value, which made it the safest standard of the value of property which the wisdom of man had ever yet discovered. 3. Its portability; which made it easy for the traveller to carry it about with him. 4. Its indestructibility; which made it the safest money that people could keep in their houses. 5. Its inherent purity; which made it the hardest money to be counterfeited, and the easiest to be detected, and, therefore, the safest money for the people to handle. 6. Its superiority over all other money; which gave to its possessor the choice and command of all other money. 7. Its power over exchanges; gold being the currency which contributes most to the equalization of exchange, and keeping down the rate of exchange to the lowest and most uniform point. 8. Its power over the paper money; gold being the natural enemy of that system, and, with fair play, able to hold it in check. 9. It is a constitutional currency; and the people have a right to demand it, for their currency, as long as the present constitution is permitted to exist.

Mr. B. said that the false valuation put upon gold had rendered the mint of the United States, so far as the gold coinage is concerned, a most ridiculous and absurd institution. It has coined, and that at a large expense to the United States, 2,262,717 pieces of gold, worth \$11,852,890; and where are these pieces now? Not one of them to be seen! all sold and exported! and so regular is this operation that the director of the mint, in his latest report to Congress, says that the new coined gold frequently remains in the mint, uncalled for, though ready for delivery, until the day arrives for a packet to sail to Europe. He calculates that two millions of native gold will be coined annually hereafter; the whole of which, without a reform of the gold standard, will be conducted, like exiles, from the national mint to the seashore, and transported to foreign regions, to be sold for the benefit of the Bank of the United States.

Mr. B. said this was not the time to discuss the relative value of gold and silver, nor to urge the particular proportion which ought to be established between them. That would be the proper work of a committee. At present it might be sufficient, and not irrelevant, to say that this question was one of commerce—that it was purely and simply a mercantile problem—as much so as an acquisition of any ordinary merchandise from foreign countries could be. Gold goes where it finds its value, and that value is what the laws of great nations give it.

In Mexico and South America—the countries which produce gold, and from which the United States must derive their chief supply—the value of gold is 16 to 1 over silver; in the island of Cuba it is 17 to 1; in Spain and Portugal it is 16 to 1; in the West Indies, generally, it is the same. It is not to be supposed that gold will come from these countries to the United States if the importer is to lose one dollar in every sixteen that he brings; or that our own gold will remain with us, when an exporter can gain a dollar upon every fifteen that he carries out. Such results would be contrary to the laws of trade; and therefore we must place the same value upon gold that other nations do, if we wish to gain any part of theirs, or to regain any part of our own. Mr. B. said that the case of England and France was no exception to this rule. They rated gold at something less than 16 for 1, and still retained gold in circulation, but it was retained by force of peculiar laws and advantages which do not prevail in the United States. In England the circulation of gold was aided and protected by four subsidiary laws, neither of which exists here: one which prevented silver from being a tender for more than forty shillings; another which required the Bank of England to pay all its notes in gold; a third which suppressed the small note circulation; a fourth which alloyed their silver nine per cent. below the relative value of gold. In France the relative proportion of the two metals was also below what it was in Spain, Portugal, Mexico, and South America, and still a plentiful supply of gold remained in circulation; but this result was aided by two peculiar causes; first, the total absence of a paper currency; secondly, the proximity of Spain, and the inferiority of Spanish manufactures, which gave to France a ready and a near market for the sale of her fine fabrics, which were paid for in the gold of the New World. In the United States gold would have none of these subsidiary helps; on the contrary, it would have to contend with a paper currency, and would have to be obtained, the product of our own mines excepted, from Mexico and South America, where it is rated as sixteen to one for silver. All these circumstances, and many others, would have to be taken into consideration in fixing a standard for the United States. Mr. B. repeated that there was nicety, but no difficulty, in adjusting the relative value of gold and silver so as to retain both in circulation. Several nations of antiquity had done it; some modern nations also. The English have both in circulation at this time. The French have both, and have had for thirty years. The States of this Union also had both in the time of the confederation, and retained them until this Federal Government was established, and the paper system adopted. Congress should not admit that it cannot do for the citizens of the United States, what so many monarchies have done for their subjects. Gentlemen, especially, who deery military chieftains, should not con-

ness that they themselves cannot do for America, what a military chieftain did for France. Above all, those who are now engaged in decrying the State Governments, and representing them as unfit to be trusted with their currency without a master, should not come out with a practical confession that this boasted Federal Government cannot perform for the Union what the State Governments, each for itself, performed for its citizens, for the whole period which elapsed from the close of the Revolution to the establishment of this Government.

SATURDAY, March 22.

Public Distress.

Mr. WEBSTER said that he had been requested to present to the Senate the proceedings of a meeting held at Chambersburg, in the county of Franklin and State of Pennsylvania, attended by very many citizens of that county; and also a memorial respectfully addressed to both Houses of Congress, signed by more than 1,800 of the inhabitants and electors, expressing their opinions, hopes, and fears, in regard to the present condition of public affairs. The presentation of this paper to Congress was attended by the presence of a large committee, composed of persons of the first respectability, who, notwithstanding what they have seen of the numerous applications to Congress—notwithstanding the abundant evidence which has been furnished of the distress pervading all parts of the country, and the necessity of some governmental interference to alleviate that distress, yet had felt it their duty to accompany their memorial to the seat of Government, and to assist in producing a conviction on the two Houses of Congress, that some legislative measures were necessary.

The county of Franklin was one of the most respectable and wealthy in the great State of Pennsylvania. It was situated in a rich limestone valley, and, in its main character, was agricultural. He had the pleasure, last year, to pass through it, and see it for the first time, when its rich fields of wheat and rye were ripening, and, certainly, he little thought then, that he should, at this time, have to present to the Senate such undeniable proofs of their actual, severe, and pressing distress. These memorialists, for themselves, were sick, sick enough of the Executive experiment. They thought the interests of themselves and the country generally were too important to be made the subject of a rash experiment. They did not come to seek a boon from the Executive—they sought no extraordinary degree of attention from Congress. They only ask that the laws be administered according to their spirit. They ask that the laws might take their course, and secure their social and political rights. They desired that the war going on between the President and the bank may cease. They feel themselves unsafe while this state of hostility continues. They desire to see Con-

gress interpose to check the usurpations of Executive power, which, in the language of a British statesman, has increased, is increasing, and ought to be diminished. Mr. W. said he would only add his solemn conviction of the truth of what the memorialists said, and moved that the memorial and proceedings be referred to the Committee on Finance and printed. The motion was agreed to.

Rhode Island Memorials.

Mr. ROBBINS presented two memorials on the subject of the general distress and pecuniary embarrassments of the country; one from the town of Newport, Rhode Island, and the other from the inhabitants of the towns of Smithfield and Cumberland, in the same State.

In offering these memorials, Mr. R. addressed the Senate earnestly in support of their objects, concurring with them in their representation that the removal of the deposits had brought upon their business the great depression of which they complained, and that nothing but their restoration could restore prosperity.

Both memorials were then referred to the Committee on Finance.

MONDAY, March 24.

Lynn (Mass.) Memorial.

Mr. WEBSTER presented a memorial signed by nine hundred of the inhabitants of the town of Lynn, in the State of Massachusetts, remonstrating against the removal of the public deposits from the Bank of the United States, and praying for their restoration, with such other measures as Congress may deem expedient.

Those members of the Senate, said Mr. W., who have travelled from Boston to Salem, or to Nahant, will remember the town of Lynn. It is a beautiful town, situated upon the sea, is highly industrious, and has been hitherto prosperous and flourishing. With a population of eight thousand souls, its great business is the manufacture of shoes. Three thousand persons, men, women, and children, are engaged in this manufacture. They make and sell, ordinarily, two millions of pairs of shoes a year, for which, at 75 cents a pair, they receive one million five hundred thousand dollars. They consume half a million of dollars' worth of leather, of which they buy a large portion in Philadelphia and Baltimore, and the rest in their own neighborhood. The articles manufactured by them are sent to all parts of the country, finding their way into every principal port, from Eastport round to St. Louis. Now, sir, when I was last among the people of this handsome town, all was prosperity and happiness. Their business was not extravagantly profitable; they were not growing rich over fast, but they were comfortable, all employed, and all satisfied and contented. But, sir, with them, as with others, a most serious change has taken place. They find their usual employments suddenly arrest-

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ed, from the same cause which has smitten other parts of the country with like effects; and they have sent forward a memorial, which I have now the honor of laying before the Senate. This memorial, sir, is signed by nine hundred of the legal voters of the town; and I understand the largest number of votes known to have been given is one thousand. Their memorial is short; it complains of the illegal removal of the deposits, of the attack on the bank, and of the effect of these measures on their business.

Mr. President, when will this foolish experiment be abandoned? All men may commit errors, but wise men, and candid men, will retract them so soon as they see them to be errors. They will not adhere to error, in spite of experience, and grow more obstinate and more angry, in proportion as that error becomes more and more manifest. Sir, we have come to a pass, in which attachment to preconceived opinions, and to hastily adopted purposes, must give way to truth and reason. The times are becoming too sober, quite too sober, for any man, or any set of men, to make a stubborn point of what they may call their own consistency. The country must be saved; and the people must save it by compelling those who have adopted ruinous measures, to retrace their steps, if they will not retrace them of their own free will, having seen their utter and absolute failure, and the enormous mischiefs which they have produced.

The memorial was referred to the Committee on Finance, and ordered to be printed.

Mr. BEXTON said: The daily morning apparition of these distress petitions was a novelty in this chamber, and they were presented in a novel manner—with elaborate speeches, when the rules of the Senate only admit the contents to be stated, as nothing is to be done with them except to refer them to a committee—to which nobody objects. Then why the speeches? They are certainly for the country, not for the Senate, and certainly tend to increase the distress of which they complain. No doubt the country is distressed, struck down from prosperity in a few weeks; and no doubt the Bank of the United States has done it, and done it for the purpose of forcing a recharter and a restoration of the deposits through the distresses of the people. They all say the same thing, that nothing but this restoration and recharter will relieve the distress. Well! the bank will not be rechartered, nor the deposits restored, and yet the distress will cease, and all the imputed causes of the distress will be found to be a mistake.

TUESDAY, March 25.

Memorial from Philadelphia.

Mr. CLAYTON presented resolutions adopted at a large public meeting of silversmiths, watch-makers, jewellers, &c., of the city of Philadelphia.

He stated the substance of the resolutions, and expressed his regret that an earlier opportunity for the presentation of them had been denied him, in consequence of the great press of business before the Senate.

Mr. C. proceeded to enforce the opinions and arguments adopted at the meeting, by comments on the respectability of those who advanced them, and the peculiar character of the meeting. It was composed of a class of men whose business was, of all others perhaps, most affected by disastrous fluctuations in the currency, being the manufacture and sale of such articles as are most liable to be dispensed with by a suffering people in any state of general embarrassment; and he held it due to the Senate to observe that, from the intelligence and integrity of those whose names appeared on the face of the proceedings, the sentiments advanced in reference to a subject which necessarily engaged so much of their attention as men of business, were entitled to be weighed with the highest respect by this honorable body. On his motion, the resolutions were read, referred to the Committee on Finance, and ordered to be printed for the use of the Senate.

WEDNESDAY, March 26.

Young Men's Distress Memorial, Philadelphia, 5,000 Signers—Committee of 25 Young Men to bring it on.

Mr. SOUTHARD presented the proceedings of a meeting, held on the 14th of the present month, in the city of Philadelphia, composed entirely of the young men of that city and neighborhood, ascribing the present calamitous condition of the country to the removal of the public deposits from the Bank of the United States. On presenting these memorials—

Mr. S. said: On the 14th of this month, a meeting was held in the city of Philadelphia, at which 25 persons were appointed to proceed to this place, for the purpose of having the proceedings of the meeting properly presented to Congress, and suitable means used to effect their object. It was also resolved to forward to me a copy of their proceedings, to be laid before the Senate. I comply, with great cheerfulness, with their request, and now offer them to your consideration. The meeting was not of an ordinary character, nor composed of individuals usually found in political, or other public meetings. It was called by more than 5,000 young men, and composed entirely of young men—a portion of them not yet belonging to any of the parties into which the politicians of the country have been divided; who have, as yet, assumed no party name, and learned to follow no party leader. They have no name written upon their standards, or marked upon their foreheads. The only flag which they have used, is that of their common country. They were attracted, or rather urged, sir, to this meeting, and to the expression of their feelings

and opinions, by what they saw around, and knew of the action of the Executive upon the currency and prosperity of the country. They have just entered, or are about entering, on the busy occupations of manhood, and are suddenly surprised by a state of things around them, new to their observation and experience. Calamity had been a stranger in their pathway. They have grown up through their boyhood in the enjoyments of present comfort, and the anticipation of future prosperity—their seniors actively and successfully engaged in the various occupations of the community, and the whole circle of employments open before their own industry and hopes—the institutions of their country beloved, and their protecting influence covering the exertions of all for their benefit and happiness. In this state they saw the public prosperity, with which alone they were familiar, blasted, and for the time destroyed. The whole scene, their whole country was changed; they witnessed fortunes falling, homesteads ruined, merchants failing, artisans broken, mechanics impoverished, all the employments on which they were about to enter, paralyzed; labor denied to the needy, and reward to the industrious; losses of millions of property, and gloom settling where joy and happiness before existed. They felt the sirocco pass by, and desolate the plains where peace, and animation, and happiness exulted. The act itself they regard as one of high-handed power, which spurns constitutional checks, and overleaps the barriers prepared by our fathers against arbitrary Governments; as destroying confidence in the currency of the country, and the policy of the Government, and the stability of our institutions; and meriting the deep and lasting execrations of an injured and outraged people.

Mr. S. then moved that the proceedings be read, printed, and referred to the Committee on Finance.

Mr. PRISTON said: I rise, Mr. President, for the double purpose of seconding (which I do by the request of the memorialists) the motion of the Senator from New Jersey, and of announcing to the Senate, that, when that motion is disposed of, I will have the honor of presenting to the Senate, a memorial from the 8d Congressional district of Pennsylvania. I shall avail myself of the present occasion to submit what I have to say upon both memorials.

That which is now under the formal consideration of the Senate is distinguished from all others which have been heretofore received, in this, that whereas heretofore memorials have been presented either from promiscuous assemblages of citizens, or from assemblages of citizens of particular avocations, as merchants, manufacturers, &c., but all representing the great, active, and what may be called the political body of the community, the present memorialists are not designated from the mass of our citizens by trade, or calling, or pursuits in life, but are distinguished from it by the fact, that they are young men. Four thousand young men sign

the memorial before us, and venture to suggest their sentiments to the Senate of the United States. It is obvious that those who defend the measures of the administration, and whose business it is to detract from the efficacy of every manifestation of public opinion, will be prompt with the inquiry, By what title to respect do the young men of Philadelphia claim the consideration of the Senate? Why should those, who are just beginning to look upon life, assume to express opinions upon the gravest and most complex concerns? For my part, said Mr. P., I think I can perceive in these proceedings a most instructive lesson.

It may happen, sir, that the influences of youthful ardor have as little effect in giving bias to the judgment, as the peculiar pursuits, the accidental interests, and, above all, the party spirit, of those who have entered fully into the more strenuous pursuits of life. If these memorialists are young, they are unsophisticated—if their judgment be considered immature, let it be remembered that their hearts are sound and generous; and, above all, let us not forget that these gentlemen express what the bold, the generous, the untrammelled, and the unselfish feel; and, if you please, sir, that they reflect and indicate the emotions which so profoundly agitate our country from one end to the other. It is obvious, sir, that a deep feeling of anxiety has taken possession of the public mind; a feeling independent of actual suffering, and independent too of a full perception of the extent of the misrule to which we are subjected. It is not only those whose fortunes and hopes in life have been prostrated. It is not only those who stand upon the brink of ruin, and look to each coming day with dread of its results. It is not only those whose business or habit it is to mark the progress of political changes, and note coming events in the shadows which they cast before them. To none of these classes belong the memorialists before us; but, every order of society, every condition of life, all ages, and both sexes, are aroused by the blow which has been struck, by the Executive, upon that cord which binds every heart to our common country; and these memorialists, sir, when they declare that the laws have been violated, and the constitution endangered, find an echo in every man's bosom. It will be found that the memorialists confine themselves to these topics. These are the topics which occupy and agitate the community; and so absorbing have been the feelings excited by the seizure of the public money, so much has it astounded and alarmed the public mind, that all other subjects have been forgotten, all other acts of misrule overlooked, while this has claimed an exclusive and intense attention.

Sir, said Mr. P., I trust that the prayers of our fellow-citizens will be answered. The memorial presented by the Senator from New Jersey adds to their numbers, and when it is disposed of, I shall have the honor of presenting another, signed by 4,677 voters in the third Congressional

MARCH, 1834.]

Lexington (Ky.) Memorial.

[SENATE.]

al district of Pennsylvania, which I will propose shall take the same course.

Mr. BROWN said that the remarks which had fallen from the gentlemen who had just addressed the Chair, (Messrs. SOUTHWARD and PRESTON,) seemed to require from him some reply; but, before he proceeded farther, he would take occasion to compliment gentlemen on the other side, on their having recovered the position that they had for some time lost sight of. Their strong political phalanx seemed to have been wavering. He began to think that all was not well with them; and that they did not command that entire unity of action which formerly distinguished them. They told us at one time, said Mr. B., that the violated laws, and an outraged constitution, was the only issue before the Senate; and when we told them that the recharter of the Bank of the United States was the only true issue, that was stoutly met and denied. A bill to recharter the bank had been presented a few days ago, and the honorable gentleman who introduced it opened the debate with a full discussion on all its merits, and with an ingenuity characteristic of able parliamentary leaders; that issue had been withdrawn, and the notes of distress were again sounded. He again congratulated gentlemen on the recovery of their former position.

The honorable Senator from South Carolina (Mr. PRESTON) prefaced his remarks by saying that one of the circumstances peculiarly marking the present times was the presentment of a memorial from the young men of the country. What do we see? (said Mr. B.) For the first time in the history of the country, the young men brought forward to fight the battles of the Bank of the United States; and this showed the talismanic power of that institution, that they were able to mingle such incongruous elements in the conflict. What do we see? he again asked. Why, the bank reduced to the necessity, after having undergone a review before the people of the United States, and discomfited there, of taking refuge among a parcel of boys. The honorable gentleman continues to harp upon the great distress prevailing throughout the country; and what does he infer from this? That the people are opposed to the administration on this bank question? Did the elections give any evidence of the kind? Had there been a single election since, that had not given the administration a triumphant majority? Witness the elections in Virginia, in New Hampshire, and everywhere that elections had been held. How, then, did the gentleman infer that the people were against the administration on this bank question, when the elections gave such undeniable evidence to the contrary? The honorable gentleman had gone on to inquire into the state of our foreign relations, and he would take upon himself to answer him. There never had been a time, since the formation of our Government, when our foreign relations were conducted with such unparalleled success; and with what dignity and skill, might be read

in a nation's hearts, and find an approving throb in every patriot bosom. It appeared to him that this was rather an unfortunate topic for the gentleman to advert to. Matters of old controversy with foreign powers, which had heretofore baffled the skill of the ablest negotiators, had been settled, and satisfactorily settled, under this administration. The gentleman had spoken of the vacancies in our diplomatic corps; but he (Mr. B.) was not aware of any foreign court at which the United States were not represented, either by a minister or a chargé; and, as to Russia, the gentleman must be aware that it was but a very short time since our minister to that court had returned home. The gentleman asked why we were not represented at the court of England? Now, he believed that a satisfactory answer to that question might be found in the circumstance that the appointments of the Executive to that court had not always met with the approbation of the Senate. A few years ago, the appointment of a minister to England was made, and with what success, the history of that body (the Senate) would show. Again: the gentleman had referred to the tendency of this Government to concentrate power in the hands of one man; but, if there was such a one, he could only say there was a counter tendency in the people towards the support of liberty. Did not the gentleman perceive a tendency in the Bank of the United States towards an unauthorized assumption of power? "Look on this picture, and on that." We see an institution taking an attitude wholly unparalleled in the history of the country, and yet we have heard it draw down from gentlemen no denunciations. It had been repeatedly charged that the President was disposed to arrogate to himself monarchical power—to assume the imperial purple; and yet, when we look to the age of the man, to his habits, and to his character, we may well ask what object he can have in view for abusing the high trust reposed in him? On the contrary, he has every inducement not to tarnish that fame acquired by such distinguished services, and by a long life of patriotic devotion to the institutions of the country. Mr. B. concluded by saying, he had conceived it to be his duty to make these few remarks, in reply to what had fallen from the gentlemen from New Jersey and South Carolina.

The memorials, as moved, were then referred to the Committee on Finance, and ordered to be printed.

THURSDAY, March 27.

Lexington (Kentucky) Memorial.

Mr. CLAY said he was desirous of calling up the resolutions he had submitted some days ago, but as he did not perceive the gentleman from Georgia, who he was inclined to believe wished to make some observations on the subject, to be in his place, he would waive the motion, and take the present opportunity of presenting a memorial from the citizens of Lex-

ington, and of the town and county of Fayette, Kentucky, on the subject so interesting to the people of the United States. This memorial was signed by upwards of 1,200 persons, embracing mechanics, manufacturers, farmers, merchants, and the great body of men of business of those places; it was signed by numbers of his friends and neighbors—by individuals, some of whom he had known for forty years. It was on the common topic which had so often and for so long a time engaged the attention of the Senate—the existing distress of the country. It was very true, that the memorialists did not speak of very great pressure in their portion of the country; they spoke of the approach of great distress, and expressed their apprehensions that it would continue to increase. But in what country, in what climate, the most favored by Heaven, can happiness and prosperity exist against bad government, against misrule, and against rash and ill-advised experiments? On the mountain's top, in the mountain's cavern, in the remotest borders of the country, everywhere, every interest has been affected by the mistaken policy of the Executive. While he admitted that the solicitude of his neighbors and friends was excited in some degree by the embarrassments of the country, yet they felt a deeper solicitude for the restoration of the rightful authority of the constitution and the laws. It is this which excites their apprehensions, and creates all their alarm. He would not, at this time, enlarge farther on the subject of this memorial. He would only remark, that hemp, the great staple of the part of the country from whence the memorial came, had fallen twenty per cent. since he left home, and that Indian corn, another of its greatest staples, the most valuable of the fruits of the earth for the use of man, which the farmer converted into most of the articles of his consumption, furnishing him with food and raiment, had fallen to an equal extent. There were in that county six thousand fat bullocks now remaining unsold, when, long before this time last year, there was scarcely one to be purchased. They were not sold, because the butchers could not obtain from the banks the usual facilities in the way of discounts; they could not obtain funds in anticipation of their sale wherewith to purchase; and now \$100,000 worth of this species of property remains on hand, which, if sold, would have been scattered through the country by the graziers, producing all the advantages to be derived from so large a circulation. Every farmer was too well aware of these facts one moment to doubt them. We are, said Mr. O., not a complaining people. We think not so much of distress. Give us our laws—guarantee to us our constitution—and we will be content with almost any form of government.

Mr. O. asked that the memorial be read, printed with the signatures, and referred to the Committee on Finance; which motion was carried.

FRIDAY, March 28.

Albany Memorial.

Mr. WEBSTER presented a memorial signed by about twenty-eight hundred of the citizens of Albany. On presenting this memorial, Mr. WEBSTER said:

Mr. President: I have the honor to present to the Senate, a memorial from the city of Albany.

New York, Philadelphia, Baltimore, and Boston, have already laid before Congress, the opinions entertained in those cities by men in all classes of society, and of all occupations and conditions in life, respecting the conduct of the administration in removing the public deposits. To these, Albany now joins her voice—a voice not less clear, not less strong, not less unanimous, than that of her sister cities.

It is well known to you, sir, and to gentlemen on the floor of the Senate, that Albany, for its size, is an extremely commercial city. Connected with the sea by one of the noblest rivers on earth, it is placed, also, at the point, at or near which many hundred miles of inland navigation, from the west and from the north, accumulate the products of a vast and fertile interior, and deliver them, for further transport, into receptacles proper to be borne on tide-waters, or to be impelled by steam. In return for these riches of inland industry, thus abundantly poured forth to the sea, Albany receives, of course, large amounts of foreign merchandise, to be forwarded inward, and to be distributed for consumption in the western district of the State, along the shores of the lakes, and even to the banks of the Mississippi itself. It is necessarily, therefore, a place of vast exchanges of property; in other words, a place of great trade. Albany, I believe, sir, has a population of twenty-eight or thirty thousand people. It has given, I learn, on interesting occasions, nearly, but not quite, thirty-eight hundred votes. The paper, sir, whose folds I am now unrolling, and which I have risen to present to the Chair, bears twenty-eight hundred names, all believed to be qualified electors. Great pains have been taken to be accurate in this particular; and if there be a single name to this paper not belonging to a qualified voter, it is not only here by mistake, but here after careful scrutiny has been had, for the purpose of avoiding such mistakes. Every man, sir, whose name is here, is believed to have a right to say "I am an American citizen; I possess the elective franchise; I hold the right of suffrage; I possess and exercise an individual share in the sovereign power of the State; I am one of those principals, whose agent Government is, and I expect from Government a proper regard to my interests."

It will thus be seen, sir, that this paper expresses the sentiments of three-fourths of as many citizens of Albany as have ever been collected, on any occasion, at the polls of the city. What these sentiments are, the Senate will be

MARCH, 1834.] *Removal of the Deposits—Mr. Clay's Resolutions: the Vote taken.*

[SENATE.]

at no loss to understand, when the paper shall be read.

Sir, our condition is peculiar. One hardly knows how to describe it. In the midst of all the bounties of Providence, and in a time of profound peace, we are poor. Our Secretary of the Treasury, sir, is not Midas. His touch does not turn every thing to gold. It seems rather to turn every thing into stone. It stops the functions and the action of organized social life, and congeals the whole body politic. It produces a kind of instantaneous petrification. We see still the form of our once active social system, but it is without life. We can trace the veins along its cold surface, but they are bloodless; we see the muscles, but they are motionless; the external form is yet fair and goodly, but there is a cessation of the principle of life within.

[Mr. W. continued his remarks for some time, and then moved the reference and printing of the memorial, which was agreed to without opposition.]

Removal of the Deposits.—Mr. Clay's Resolutions: the Vote Taken.

The CHAIR called the order of the day, being the resolution reported upon by the Finance Committee, with the resolutions moved by Mr. CLAY.

Mr. MOORE said he did not rise now with a view of entering into the discussion of this question, but for the purpose only of preventing, during these times of high political excitement, any misrepresentation of the views which influenced the vote he was about to record. The first question presented for the consideration of the Senate, was—whether the reasons assigned by the Secretary of the Treasury for the measure adopted in the removal of the public deposits from the Bank of the United States to the State institutions, in whose custody they had been placed, were satisfactory? Mr. M. said it was his honest and clear conviction they were not satisfactory, but insufficient and untenable; and that, in the act and the manner of effecting their removal, was involved an assumption of power, the legitimate exercise of which properly belonged to the legislative department of the Government. But, admitting the removal of the public money, and the manner of that removal, to have been improper, and as meriting censure, yet their restoration to the Bank of the United States, under all the circumstances that surround us, he thought was fairly questionable; and particularly if the proposition of a recharter of the bank, at this time, be viewed as settled in the negative, of which he could not entertain a doubt, their repossession by the Bank of the United States, for the short time it had to exist, could not be very important, either as related to the prosperity of the institution itself, or the interest of the community; whilst their withdrawal from the banks in whose custody they have been placed, would greatly reduce their means

and power to afford that relief to the wants and distresses of the people, called for in every direction. But a more powerful consideration operating upon his mind, was the supposed will and wishes of a majority of those whom he had the honor to represent; for, although he was well aware that a very respectable minority, including gentlemen of the first intelligence and great moral worth, were decidedly opposed to this act of the Executive in the removal, and in favor of a restoration, yet he was bound to believe, from the indications of public sentiment which he had received, that a majority of the citizens of the State entertained different views, and he therefore gave his vote in favor of a tribute due to public opinion.

Mr. McKEAN said that he intended to vote against both of the resolutions under consideration, for several reasons, but especially because they were exclusively censorious in their character, and were calculated further to distract and excite the angry feelings which already existed. If the resolutions pass, they effect no remedy for the extreme distress, of which we have heard so much, nor do they point to any future legislation for that purpose. His votes on these resolutions were not to be taken as evidence of what his course would be when a distinct proposition, granting relief to a suffering community, should be presented.

The question was then taken upon agreeing to the first of the resolutions, being that reported by the Committee on Finance, in the following words:

Resolved, That the reasons assigned by the Secretary of the Treasury for the removal of the money of the United States, deposited in the Bank of the United States and its branches, communicated to Congress on the fourth day of December, 1833, are unsatisfactory and insufficient.

And decided in the affirmative, as follows:

YEAS.—Messrs. Bibb, Black, Calhoun, Clay, Clayton, Ewing, Frelinghuysen, Hendricks, Kent, King of Ga., Knight, Leigh, Mangum, Naudain, Poindexter, Porter, Prentiss, Preston, Robbins, Silsbee, Smith, Southard, Sprague, Swift, Tomlinson, Tyler, Waggaman, Webster—28.

NAYS.—Messrs. Benton, Brown, Forsyth, Grundy, Hill, Kane, King of Alabama, Linn, McKean, Moore, Morris, Robinson, Shepley, Tallmadge, Tip-ton, White, Wilkins, Wright—18.

Mr. CLAY, at the instance of some of his friends, modified his resolution, so as to read as follows:

Resolved, That the President, in the late executive proceedings in relation to the public revenue, has assumed upon himself authority and power not conferred by the constitution and laws, but in derogation of both.

And the question being taken on agreeing to this resolution, it was decided as follows:

YEAS.—Messrs. Bibb, Black, Calhoun, Clay, Clayton, Ewing, Frelinghuysen, Kent, Knight, Leigh, Mangum, Naudain, Poindexter, Porter, Prentiss,

SENATE.]

Bath (Me.) Memorial.

[APRIL, 1834.]

Preston, Robbins, Silsbee, Smith, Southard, Sprague, Swift, Tomlinson, Tyler, Waggaman, Webster—26.

NAVS.—Messrs. Benton, Brown, Forsyth, Grundy, Hendricks, Hill, Kane, King of Alabama, King of Georgia, Linn, McKean, Moore, Morris, Robinson, Shepley, Tallmadge, Tipton, White, Wilkins, Wright—20.

So this resolution also was agreed to.

SATURDAY March 29.

Gold and Silver Currency.

Mr. BENTON submitted the following resolution, which was ordered to be printed:

Resolved, That a committee be appointed on the part of the Senate, jointly with such committee as may be appointed on the part of the House of Representatives, to consider and report to the Senate, and to the House, respectively, what alterations, if any, are necessary to be made—

1st. In the value of the gold coined at the mint of the United States, so as to check the exportation of that coin, and to restore it to circulation in the United States.

2d. In the laws relative to foreign coins, so as to restore the gold and silver coin of foreign nations to their former circulation within the United States.

3d. In the joint resolution of 1816, (for the better collection of the revenue,) so as to exclude all bank notes under twenty dollars, from revenue payments, after a given period, and to make the revenue system of the United States instrumental in the gradual suppression of the small note circulation, and the introduction of gold and silver for the common currency of the country.

WEDNESDAY, April 2.

Death of Mr. Blair, of South Carolina.

The following message was received from the House of Representatives, by Mr. Franklin, their clerk:

IN THE HOUSE OF REPRESENTATIVES,
Wednesday, April 2d, 1834.

Ordered, That a message be sent to the Senate to notify that body of the death of JAMES BLAIR, late one of the Representatives from the State of South Carolina, and that his funeral will take place this day, at four o'clock in the afternoon, from the Hall of the House of Representatives.

Mr. PRESTON said: I am sure the Senate will sympathize with me in those emotions of profound sorrow with which I rise to propose the customary resolution upon such an event. The sudden death of General BLAIR, in the vigor of life, and in the midst of its most strenuous pursuits, cannot fail to impress all minds with the most solemn feelings—which to us are enhanced by his association with us in the same pursuits, and by the fact that this is the second instance this session of such an awful and sudden dispensation of Providence. We, his colleagues of the South Carolina delegation, lament his loss not the less that he has differed with us in some points of public policy. Such differences have never extended to personal separation; for each has excused the zeal of the other, by

a mutual and equal acknowledgment of zeal, and God forbid that any such difference should impede for a moment the sad current of feeling which passes through my heart. To whatever the deceased addressed himself, he brought uncommon force of character, firmness of purpose, and vigor of intellect. His country and his constituents have to mourn the loss of these qualities at this important juncture of our affairs and upon me devolves the melancholy duty of moving the following resolution:

Resolved, That the Senate will attend the funeral of the Hon. JAMES BLAIR, late a member of the House of Representatives from the State of South Carolina, at the hour of four o'clock this evening; and, as a testimony of respect for the memory of the deceased, they will go into mourning by wearing crape round the left arm for thirty days.

The resolution was then unanimously adopted; and, on motion of Mr. PRESTON, The Senate adjourned.

THURSDAY, April 3.

Bath (Me.) Memorial.

Mr. SPRAGUE presented a memorial of the citizens of Bath, in Maine.

Mr. S. said that this was a memorial on the all-absorbing subject which had occupied the Senate for so many months, and to which Senators now lent such an unwilling ear, as led him almost to believe that their hearts had become callous to the sufferings of the community, as they increased in intensity. The memorial was signed by upwards of 800 of the citizens of Bath, State of Maine, who represent that this infliction on the country, in its travels to the Northeast, had reached them, and that they were now feeling its disastrous effects; that they were increasing, and that every indication as to the future gave them reason to apprehend they would be still more and more severe. They had before them, in prospect, as they express it, the utter prostration of business, bankruptcy, and ruin.

The memorial was referred, and ordered to be printed.*

* All the memorials presented were ordered to be printed, and so ordered in each House, names and all—greatly augmenting the expense of the public printing. Thus:

Printing of the Senate and House from 1817 to 1833.

Years.	Senate.	House.
1817.	\$4,837 00	\$3,561 99
1818.	6,107 73	15,318 38
1819.	5,736 79	10,493 00
1820.	11,960 50	18,043 54
1821.	11,871 64	17,863 34
1822.	12,773 47	18,595 63
1823.	6,349 45	23,153 21
1824.	10,860 00	24,250 00
1825.	10,583 00	19,958 29
1826.	14,923 04	50,463 07
1827.	13,055 80	53,067 38
1828.	21,508 97	34,331 10
1829.	10,335 73	25,023 81
1830.	11,301 95	34,989 67
1831.	6,833 19	31,180 88
1832.	18,391 53	67,776 69
1833.	14,757 57	51,339 68

At the succeeding session of 1833-34 the printing of the

APRIL, 1834.]

Faneuil Hall Resolutions.

[SENATE.]

Faneuil Hall Resolutions.

Mr. BEXTON rose to present the resolutions adopted by the friends of the administration, and opponents of the United States Bank, at their great meeting in Faneuil Hall, on the 14th of March last. He said, that in the great multitude of petitions, memorials, and resolutions, which had been presented to the Senate, few, if any, ever came forward with more imposing claims to the respectful consideration of the Senate. They come from a city, great in itself, and greater still in the commerce which enriches it—the arts and literature which adorn it—and the historic recollections which illustrate it. They come from a large portion of the population of that eminent city—5,000 being computed to be within the walls, and 2,000 without—making a mass of 7,000 citizens, whose voices were united and embodied in these resolutions. They were adopted on a spot sacred to American history, and memorable for scenes of patriotic impulsion—in that Faneuil Hall, whose name alone imparts an interest to every thing which emanates from it.

These resolutions, said Mr. B., are twenty-eight in number. They embrace all the points which have grown out of the question which has occupied and engrossed the public attention since the meeting of Congress; and are full and explicit in approving the conduct of the President and Secretary of the Treasury, and in condemning the conduct of the United States Bank. Concurring, as he heartily did, in the sentiments expressed by these resolutions, he felt a particular gratification in being the organ of their communication to the Senate. They would be read, and would speak for themselves; and would show that any attempt on his part to add to their point and power, would be vain and nugatory. He should not make the attempt—he should not pretend to go over ground so fully occupied and so ably explored; but he would take leave to make a few remarks on some points mentioned in the resolutions, either of a more general application or of a nature not to be sufficiently illustrated in the limited scope of a resolution.

Mr. B. remarked upon the identity of the scene which was now presented with the one which was witnessed at the approaching termination of the first bank charter in 1811, when there was no removal of deposits to be charged with the distresses of the country. All the machinery of alarm and distress was in as full activity at that time as at present, and with the same identical effects. Town meetings—memorials—resolutions—deputations to Congress—alarming speeches in Congress. The price of all property was shown to be depressed. Hemp sunk in Philadelphia from \$350 to \$250 per ton; flour sunk from \$11 a barrel to

\$7 75; all real estate fell 30 per cent.; 500 houses were suspended in their erection; the rent of money rose to 1½ per month on the best paper. Confidence destroyed—manufactories stopped—workmen dismissed—and the ruin of the country confidently predicted. This was the scene then; and for what object? Purely and simply to obtain a recharter of the bank—purely and simply to force a recharter from the alarm and distress of the country; for there was no removal of deposits then to be complained of, and to be made the scapegoat of a studied and premeditated attempt to operate upon Congress through the alarms of the people and the destruction of their property. There was not even a curtailment of discounts then. The whole scene was fictitious; but it was a case in which fiction does the mischief of truth. A false alarm in the money market produces all the effects of real danger; and thus, as much distress was proclaimed in Congress in 1811—as much distress was proved to exist, and really did exist—then as now; without a single cause to be alleged then, which is alleged now. But the power and organization of the bank made the alarm then; its power and organization make it now; and fictitious on both occasions; and men were ruined then, as now, by the power of imaginary danger, which in the moneyed world, has all the ruinous effects of real danger. No deposits were removed then, and the reason was, as assigned by Mr. Gallatin to Congress, that the Government had borrowed more than the amount of the deposits from the bank; and this loan would enable her to protect her interest in every contingency. The open object of the bank then was a recharter. The knights entered the list with their visors off—no war in disguise then for the renewal of a charter under the tilting and jousting of a masquerade scuffle for recovery of deposits.

That the real object of all this alarm in the country—all this pressure upon some parts of the country—for the section south of the Potomac had enjoyed a remarkable exemption—he was permitted to believe was to secure the recharter of the bank. Such must have been the design of the bank; and the manner in which the bill for the recharter was brought forward, and then laid over, certainly favored the idea. It was brought forward under an agonizing cry of distress, and a vehement appeal for immediate relief from actual, insufferable distress. It was then laid down that it might not interfere with another debate; that other debate came to a close in two days; then the bill which was fixed for the 1st of March, was taken up to be fixed again for the 21st of April; and before the 21st of April comes, a set of important elections will take place in the two great States of New York and Virginia. Thus after working the machinery of alarm for three months, and filling the Union with cries for the restoration of the deposits, the bank suddenly presents a demand for a recharter; and then adjourns that demand, urgent

Senate went up to \$85,242, and that of the House to \$89,290, —the increase chiefly induced by printing the distress memorials.

as it might be, until certain important elections were over!

Mr. B. remarked upon the political character of this bank. He said it was born a political institution, and was the first measure of the Government to develop the line which so long and so distinctly marked the political parties of this country. The creation of this bank went to the origin of party. It went to the source where parties should be formed—to principles, to great and fundamental principles in the administration of the Government. It involved the question of constructive, and of granted powers; and was the entering wedge to all the implied powers afterwards assumed by Congress. Prohibitory tariffs—local internal improvement—and the whole American system. He said the bank was the head of the American system, and if it was rechartered, it would re-establish that system in greater power and glory than it ever possessed. That it would do so, was proved, he said, by what it was now doing—struggling for those deposits which were the fruit of the high tariff policy—struggling for money which many gentlemen held to have been unconstitutionally levied, and therefore, not levied at all, but taken tortuously. He warned gentlemen who were opposed to the American system, not now to re-establish this eldest and strongest member of that system; and which, if re-established, would certainly set up the whole family again; especially that high tariff which furnished her with those surpluses of revenue, for the keeping of which she now shows such an invincible inclination.

Mr. B. remarked upon the resolution which spoke of the exclusion of the Government directors from a knowledge and participation in the affairs of the bank, for the purpose of reminding the American people that there were no Government directors at this time in the bank. The institution, in its management, was now a mere private affair, governed by the directors of the individual stockholders; wielding and using the money, the name, the character, and the influence of the United States, precisely as they pleased. The immense power which the Government had put into the hands of the bank, was now used independently of the Government; and in the absence of directors, it became a matter of the highest moment to the people to have a thorough investigation into the affairs of the bank, to see how far its tremendous powers had been used for good, or for evil; for favor, or affection; for the relief, or oppression of the American people. Until that examination was made, and especially in the absence and exclusion of the Government directors, it was certainly an extraordinary case of presumption for the bank to come forward and demand a recharter.

The equality of the State banks with the branches of the Federal bank, as places of deposit for the public moneys, as mentioned in one of the resolutions, was next adverted to by Mr. B. He did it for the purpose of remarking

that the strong and conclusive argument against the assumption, that the Federal bank was the Federal Treasury, growing out of the 14th fundamental article of the constitution of the bank, could no longer escape public attention. The notice which was taken of it in such a meeting, and such a place, would ensure it a general and conspicuous regard in time to come.

FRIDAY, April 11.

Distress Petitions and Petitioners—Compilation and Enumeration—Numbers and Quantity.

Mr. CLAY rose to present a motion or order, to which he invited the attention of the Senate. We have had, said he, a great variety of memorials and petitions presented in the progress of this session, on the state of the country, its distresses, and the relief which the petitioners think ought to be extended to the country. It appeared to him that the compilation of these papers would form a document one would like to possess, to see the aggregate number of petitioners, *pro* and *con.*, on a most interesting subject, and to have a collected view of the sentiments of their fellow-citizens who had come before the Senate. With a view of ascertaining these particulars, he submitted the following order, which, as he supposed, did not require a delay on the table of one day, he hoped the Senate would consider at once:

Ordered, That the Secretary of the Senate be directed to cause to be ascertained and reported to the Senate, the aggregate numbers of all who have, or shall have, on the day of his report, presented petitions, memorials, or other proceedings to the Senate, for or against the Executive measure of the removal of the public deposits, distinguishing the number appertaining to each.

Mr. WRIGHT rose to inquire whether the rule did not require the order to lie on the table one day.

The CHAIR having replied in the negative,

Mr. WRIGHT thought there were many reasons which would render the execution of such an order a matter not only of difficulty, but of delicacy to the Secretary. He would mention one single difficulty that had come under his own observation. During the last week, there had been received from the public printer two memorials from Albany, New York, printed with the names. The names had been printed on his motion. Now, when one of these memorials was presented, it was said to contain 2,812 names; but, on counting them, he found but 1,812. The number of names in the other memorial also differed in the printed copy from that the original was said to contain. He made these remarks with no invidious feelings. He did not attribute the mistake to the printer, or to any one else, but to show, if the order was passed by the Senate, that it would be very difficult to execute it. For these rea-

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Printing Old Journals—Abuse of Printing.

[SENATE.]

sons, he would prefer laying the order on the table.

Mr. CLAY was aware that absolute and entire precision was not to be obtained; but he thought an approximation was sufficient. Where there were 100,000 signatures, it was not to be expected but that there might be some fictitious ones among them, and the number of names stated to be affixed to memorials might also be misstated, being a few more or less; but this would be of little consequence. It would, however, be as well, if practicable, to put the Senate in possession of such information as would enable it to discriminate between those individuals in possession of the elective franchise, and those who had it not—between the fictitious and the real names. The name of the Presiding Officer of the Senate had been found affixed to the Baltimore memorial, and he (Mr. C.) knew not how many John Does and Richard Roes; but notwithstanding all this, he was willing to take them altogether, for he wanted to see the real amount of the signatures—to get some near approximation; it was all that was requisite in a case like this.

With respect to what had been said by the honorable Senator from New York, in regard to the Albany memorial, he felt persuaded there was some mistake. If he understood the honorable Senator correctly, his list was greater than that of his opponents, and perhaps that had been done, though not by the honorable gentleman himself, but by some one else, who might have contrived to cut off the tail of our petition, in order to annex it to his. He (Mr. C.) would not say it had happened; but he had understood that a large number of the names that were attached to a petition which had been gotten up in Philadelphia by the glass manufacturers, for a purpose unconnected with this subject, had been cut off and affixed to a memorial addressed to the other House on the subject of the removal of the deposits.

As regarded the Albany memorial, it would become the duty of the Secretary of the Senate, and he (Mr. C.) had such confidence in him that he was sure that officer would examine how the matter stood. With respect to the gentlemen who had brought the memorial from Albany, he believed that what they had stated they thought to be perfectly true, that there were 2,800 and odd signatures. He had not seen the printed document to which the honorable gentleman had referred, but he (Mr. C.) would venture to say, if there was not the number of names which had been stated, there had occurred some accident or mistake. He thought the document—though, he repeated, he might not get at the absolute fact—would be a valuable one, as furnishing something like the aggregate numbers, and would show the real state of the matter, *pro* and *con*. He had taken the opportunity of inquiring of one of the clerks in the office as to the practicability of obtaining this document, and he had assured him (Mr. C.) that it could be prepared in two

or three days. It was a duty which could be accomplished without difficulty.

Mr. WRIGHT believed the Secretary would do him the justice to say that he had not seen the Albany memorial.

Mr. CLAY hoped the gentleman did not understand him as intending to make any such charge.

The order was adopted.

Printing Old Journals—Abuse of Printing.

Mr. POINDEXTER moved to take up for consideration the resolution offered by him a few days since, relative to the printing of the old Journals of Congress.

Mr. KING said that when he considered the heavy draws made upon the contingent fund of the Senate during the present session, he was sorry to see another resolution of this character pressed upon the consideration of the Senate. He said that probably the honorable Senator from Mississippi had not considered the expense of carrying the resolution into effect. It would, if he mistook not, cost from \$80,000 to \$40,000. But, he said, it was not alone this resolution at this particular time that he objected to, but to the whole system of printing and binding books for the individual use of the members.

Sir, said Mr. K., the abuses of the privilege of extra printing, as it is called, for the use of the members of the two Houses of Congress, which practically results in the purchase of libraries for the members, to be kept or even sold, as their private property, is very justly considered as one of the grievances of the nation, and a practice, he said, which the people would not much longer quietly submit to.

Why, said Mr. K., as a part of the history of this abuse, allow me to refer to a vote of the other House a few days since, by which they passed a resolution that, according to the statement of one member, it would cost the Government some \$80,000; and this the House passed too, said he, with as little ceremony as they would vote the printing of a village memorial.

The House, he said, had been almost spasmodically contracted with economy at the beginning of the session, and refused at first to pass the appropriation bill, with a clause that allowed this privilege of printing books. But now they justified the practice in the House by the bad precedents of the Senate, and seemed determined to run with it a race of prodigality. The Senate, he said, had already passed one resolution during the session, that was said would cost \$46,000; some other purchases had been also made, besides an unusual quantity of extra printing; and if this resolution passed, we should see at the next session the startling item of \$150,000 for the contingent expenses of the Senate.

Sir, said Mr. K., it is not only an abuse, but an excess of power. The constitution provides that no money shall be drawn from the Treasury but by an appropriation made by law. If

it should be said that the cost of books might be, and usually was, smothered up in the appropriation bill for contingent expenses of the Senate, he could only say in answer, that this would be a fraudulent concealment of the object, which object was itself unconstitutional.

The pay of members, he said, by one clause of the constitution, was to be fixed by law. It was fixed by law at eight dollars per day; but by this practice, by the receipt of their money, and the sale of their books, they were likely to double it, as in point of fact the members frequently never received into their possession a volume of the works given them by Congress to qualify them for the performance of their duties; but sold them to booksellers, and gave orders for them on the officers of the House. Not expecting the Government to give him a library, he said, and being determined that it should not, if he could help it, he had negotiated for the purchase of a work which Congress had voted to the members at the last session, at a cost of \$55,000. The bookseller, he said, offered him an order on the clerk for a copy, which he had purchased from a member. [Here Mr. CLAY asked for the name of the member who sold it.] Mr. K. answered, that if he was rightly informed, the practice was common, and too general to justify any particular exposure. He said, however, if he thought it of any consequence to the argument, he would make the disclosure, but it was of no consequence whether they kept the books as a valuable property of their own, or sold them and received their value in money. In fact, he said, if Congress gave members the books with the "*jus disponendum*," he did not see that we had any further concern with them; and they might make, without any impropriety, the same disposition of them that they made of their other property, especially after their term of service expired. Where is the difference, said Mr. K., whether they sold them or kept them as their own? Constitutions, he said, were not made to guard against what men probably will do, but what they may do. But if gentlemen thought it important to know that sales had actually been made, he could refer them to a notorious instance of a former member of this body, (about which there was no concealment,) having sold the books given to him during a single term of service to a foreign minister for \$900!

The only power, he said, which Congress had on the subject, was to print for the use of the members as an official body, and then only to print and furnish official facts, for the information of the members whilst in the performance of their duties. But he denied the power to reprint and bind books of authority and history, either to enrich the libraries of the members or to enlighten the country. Where is the practice to stop? said Mr. K. If we can print and furnish one book because it is useful to the politician, why not reprint any other? Why not reprint some of the books

of Livy, Gibbon's Decline and Fall, and all the useful books on history, politics, and political economy? For those books, he said, were all used by politicians, especially at home, much more than the books which it was now proposed to furnish, and much more than the books generally reprinted by Congress, and distributed among the members. The work, he said, which it is now proposed to print, at such an enormous expense, had been once reprinted by Congress already, and was a work on which no member who had it, he believed, placed much value as a library book. He had known one copy given away by a member as an incumbrance to his shelves. And no work could be more worthless, except to members whilst here, and they can refer to the eight or ten copies which are now in the library, and scarcely once touched, he would venture to say, during a whole session.

Look farther, said Mr. K., at the practical inequality of the system. It depends on members themselves how much they will waste of the treasury of the nation in this way. The House and the Senate seem now trying who shall get the most books. Look again how the system fails in its object, even where the members keep their books. His honorable predecessor, he said, (no doubt against his wish,) had voted to him last session, books that cost the Government some hundreds of dollars, just one volume of which he received whilst he was a member, but which are to be sent hence to him by the Secretary to qualify him for the duties of a seat he has long since resigned; and I, said Mr. K., who fill the seat, am without the books, and intend to remain so, unless I choose to purchase them with my own funds. Books, he said, which were sent home to members who had resigned, or whose time expired before the books were completed, and also such as were sold to booksellers, or carried by the purchasers to Europe, were, he supposed, "enlightening the members for the performance of their duties and spreading useful information among the people." But, sir, said Mr. K., it is of no consequence what they do with them, if they are allowed to carry them off as their own; the reasons given for the practice are mere evasions. Congress has no power to enlighten the people, or school their members in this way. Let us, he said, when necessary, print useful official documents for the use of the office, and not buy or make books for the officer. If the rule were adopted, he said that works printed by Congress were to be left in the Capitol, under control of the public officers, for the use of members for the time being, we should at least get rid of purchasing the same books from year to year, at a progressively increasing expense "to put new members on a footing with the old"—the plan lately adopted by the House. In fact, he said, with this rule we should soon get rid of the abuse altogether, as the argument of "spreading useful information," &c., he apprehended,

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New York Memorials.

[SENATE.]

would be much weakened with many gentlemen, when they knew they were only to use the books whilst in the service of the country. In fine, he said, this practice was one of the grossest abuses, as well as one of the most palpable usurpations that ever had crept into the legislative branch of the Government, and he thought it due to the character of the two Houses, that whilst they were daily charging usurpation and abuse upon one department of the Government, that they should cast an eye to their own department. They should first sweep out their own chambers before they complained too harshly of the disorders elsewhere. He concluded by moving that the resolution lie on the table for the balance of the session.

Mr. PRESTON having asked whether the resolution was so worded as to give the books to the members—

Mr. KING said the resolution was in the usual form, he believed—that was to place the books at the disposal of the Senate; and the constant practice was, to first supply the members; but he did not know, nor could he imagine, what was to be done with the balance of the one thousand copies.

Mr. EWING having supported the principle of printing and buying books for the use of members, &c., and contending that Congress had the implied power on the same principle that they had power to build the Capitol, &c.:

Mr. KING did not deny the power to print for the use of members in their official character, as he had already explained; and he thought the course a hopeless one, that invoked the aid of an analogy so unfortunate. Sir, said Mr. K., I understand that this Capitol, being built at the public expense, is for the use of the members of Congress and other officers, for the time being; and when the honorable Senator should be able to prove that the members had the power to vote the Capital to be their own property, and sell it if they choose, and put the proceeds in their own pockets, the analogy would bear him out, and not before. Mr. K. went on to answer more fully the arguments of Mr. E. and to enforce his views, and concluded by renewing his motion.

Mr. POINDEXTER had never before heard the statement made by the honorable Senator from Georgia, of members of the other House having sold their books. Such an abuse of the privilege given to members was certainly reprehensible, and he did not know the name of any one who had been guilty of such a practice. The power seemed to him to rest in the general discretion of Congress.

Mr. PORTER asked if the books were to be given to members?

Mr. KING said the proposition was in the usual form; he supposed a number of copies would be distributed here, and the rest throughout the country.

Mr. PORTER approved of the course recommended by the Senator from New Jersey, (Mr.

SOUTHARD,) and thought the subject ought to be referred to a committee. He, Mr. P., wished to know more about it; at present he could not say whether he should vote for the printing or not.

Mr. POINDEXTER did not think the subject could be referred. The present was a proposition for the action of the Senate alone. He had no objection, however, to the reference, if it could be made.

Mr. KANE disapproved of the whole practice, and moved that the resolution be laid indefinitely on the table.

MONDAY, April 14.

New York Memorials.

Mr. CLAY presented two memorials, numerously signed; one from the city of Troy, the other from the city of Schenectady, New York.

On presenting the above proceedings—

Mr. C. said he was charged with the pleasing duty of presenting to the Senate the proceedings of a public meeting of the people, and two memorials, subscribed by large numbers of his fellow-citizens, in respect to the existing state of public affairs.

The first he would offer were the resolutions of the young men of Troy, assembled upon a call of upwards of seven hundred of their number. He had recently visited that interesting city. It is, said he, one of the most beautiful of a succession of fine cities and villages that decorate the borders of one of the noblest rivers of our country. In spite of the shade cast upon it by its ancient and venerable sister and neighbor, it has sprung up with astonishing rapidity. When he saw it last fall, he never beheld a more respectable, active, enterprising, and intelligent business community. Every branch of employment was flourishing. Every heart beat high in satisfaction with present enjoyment, and in hope from the prospect of future success. How sadly had the scene changed! How terribly have all their anticipations of continued and increasing prosperity been dashed and disappointed by the folly and wickedness of misguided rulers!

The next document which he had to offer was a memorial, signed by near nine hundred mechanics of the city of Troy. Several of them were personally known to him. And judging from what he knew, saw, and heard, he believed there was not anywhere a more skilful, industrious, and respectable body of mechanics than in Troy. They bear testimony to the prevalence of distress, trace it to the illegal acts of the Executive branch of the Government in the removal of the public deposits; ask their restoration, and the recharter of the Bank of the United States. And the committee, in their letter addressed to him, say: "We are, what we profess to be, working men, dependant upon our labor for our daily bread, confine our attention to our several vocations, and trust in

God and the continental Congress for such protection as will enable us to operate successfully."

The last memorial he would present, had been transmitted to him by the secretaries of a meeting stated to be the largest ever held in the county of Schenectady, in New York. It is signed by about eight hundred persons. In a few instances, owing to the subscriptions having been obtained by different individuals, the same name occurs twice. The memorialists bring their testimony to the existence of distress, and the disorders of the currency, and invoke the application of the only known, tried, and certain remedy, the establishment of a national bank.

Mr. BENTON, advertent to the diurnal presentation of distress memorials, and distress orations in support of them, said they had become a regular morning service, in which each opposition Senator took his turn, and performed his office with equal gravity, but it would seem with not much more of invention in the orators than in the petitioners; for all were composed of the same staple, both woof and warp. The petitions presented ruin and desolation brought upon a happy, prosperous, and unoffending people, by the ruthless act of one man; the orators eulogized the petitioners, gave interesting statistics of their town and county, agreed in all they said, and concurred in the remedy, which was perfectly logical, with the exception of being drawn from all premises. The premises were, that the removal of the deposits made the distress; the conclusion was, that the restoration of the deposits would cure the distress; very logical, but very false. The removal of the deposits did not make the distress, (so far as there was any,) and their restoration would not cure what their removal did not create.

Mr. B. said public bodies had sometimes got names from circumstances which characterized them. Thus, several English parliaments had got names which history embalms, as the *Blessed Parliament*, because all its acts were for the good of the people; the *Parliamentum indocuum*, because it was a parliament in which few could read; the *Long Parliament*, because it sat so many years; the *Rump Parliament*, because reduced to a few rag-end members. In like manner this Congress may have earned a name, growing out of its characteristic features—distress and terror. The lamentations which have filled its halls might suggest the name of the most sorrowful patriarch, and *Jeremiah Congress* become its historical appellation. But a name from the heathen mythology would suit it better, and one would readily be found in the cognomen of that frightful god—half man, and half beast—whose dreadful appearance could scare an army out of its senses. Pan, his name, and Panic the name of this Congress!

The papers were then read, printed, and referred.

TUESDAY, April 15.

Death of Mr. Dennis.

A message was received from the House of Representatives, by Walter S. Franklin, Esq., their Clerk, notifying the Senate of the death of the honorable LITTLETON FURNELL DENNIS, late a member of that House, from the State of Maryland, and that his funeral would take place from the Hall of the House of Representatives, to-morrow at 12 o'clock.

Mr. KENT rose and said: Mr. President: The message which has just been read, announces to you, and to the Senate, the death of the late Mr. DENNIS, one of the Representatives from the State of Maryland, in the other branch of Congress. Already, Mr. President, our feelings have been repeatedly agonized by the sudden death of several of our associates, in the legislative labors of the session, and the one that has just been made known to us is little less sudden than those that have preceded it.

But a few days since, and the deceased was busily engaged in the attentive discharge of the duties of his station, and he is now numbered with the dead. He is gone to "that bourne from whence no traveller returns." Truly has it been said, "in the midst of life we are in death." The deceased was a native of Somerset county, in Maryland, a prominent member of a highly respectable family, in the 50th year of his age, and although of a delicate constitution, was justifiable in looking forward yet to many years of usefulness and happiness. He was a member of the bar, justly esteemed in his profession, and always in possession of the confidence of his countrymen. His modest, unassuming, and retiring habits, could not conceal from them his good sense and high attainments, and early in life he was returned a delegate to the General Assembly of Maryland, and has been continued in the discharge of his legislative labors, with but little interruption, to the period of his decease.

Mr. KENT then submitted the following resolution, which was unanimously adopted:

Resolved unanimously, That the Senate will attend the funeral of the Hon. LITTLETON F. DENNIS, late a member of the House of Representatives from the State of Maryland, at the hour of 12 o'clock to-morrow; and as a testimony of respect for the memory of the deceased, they will go into mourning by wearing crape round the left arm for thirty days.

On motion of Mr. KENT,
The Senate then adjourned.

THURSDAY, April 17.

Message from the President:—Protest against the Senate's proceedings against him.

To the Senate of the United States:

It appears by the published Journal of the Senate, that, on the 26th of December last, a resolution was offered by a member of the Senate, which, after a protracted debate, was, on the 28th day of March last,

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President's Protest.

[SENATE.]

modified by the mover, and passed by the votes of twenty-six Senators, out of forty-six who were present and voted, in the following words, viz :

Resolved, That the President, in the late Executive proceedings in relation to the public revenue, has assumed upon himself authority and power not conferred by the constitution and laws, but in derogation of both."

Having had the honor, through the voluntary suffrages of the American people, to fill the office of President of the United States during the period which may be presumed to have been referred to in this resolution, it is sufficiently evident that the censure it inflicts was intended for myself. Without notice, unheard and untried, I thus find myself charged on the records of the Senate, and in a form hitherto unknown in our history, with the high crime of violating the laws and constitution of my country.

It can seldom be necessary for any department of the Government, when assailed in conversation, or debate, or by the strictures of the press, or of popular assemblies, to step out of its ordinary path for the purpose of vindicating its conduct, or of pointing out any irregularity or injustice in the manner of the attack. But when the chief Executive Magistrate is, by one of the most important branches of the Government, in its official capacity, in a public manner, and by its recorded sentence, but without precedent, competent authority, or just cause, declared guilty of a breach of the laws and constitution, it is due to his station, to public opinion, and to a proper self-respect, that the officer thus denounced should promptly expose the wrong which has been done.

In the present case, moreover, there is even a stronger necessity for such a vindication. By an express provision of the constitution, before the President of the United States can enter on the execution of his office, he is required to take an oath or affirmation in the following words :

"I do solemnly swear (or affirm) that I will faithfully execute the office of President of the United States; and will, to the best of my ability, preserve, protect, and defend the Constitution of the United States."

The duty of defending, so far as in him lies, the integrity of the constitution, would indeed have resulted from the very nature of his office; but by thus expressing it in the official oath or affirmation, which, in this respect, differs from that of every other functionary, the founders of our republic have attested their sense of its importance, and have given to it a peculiar solemnity and force. Bound to the performance of this duty by the oath I have taken, by the strongest obligations of gratitude to the American people, and by the ties which unite my every earthly interest with the welfare and glory of my country, and perfectly convinced that the discussion and passage of the above-mentioned resolution were not only unauthorized by the constitution, but in many respects repugnant to its provisions and subversive of the rights secured by it to other co-ordinate departments, I deem it an imperative duty to maintain the supremacy of that sacred instrument, and the immunities of the department intrusted to my care, by all means consistent with my own lawful powers, with the rights of others, and with the genius of our civil institutions. To this end, I have caused this, my solemn protest against the aforesaid proceedings, to be placed on the files of the Executive department, and to be transmitted to the Senate.

It is alike due to the subject, the Senate, and the

people, that the views which I have taken of the proceedings referred to, and which compel me to regard them in the light that has been mentioned, should be exhibited at length, and with the freedom and firmness which are required by an occasion so unprecedented and peculiar.

Under the Constitution of the United States, the powers and functions of the various departments of the Federal Government, and their responsibilities for violation or neglect of duty, are clearly defined, or result by necessary inference. The legislative power, subject to the qualified negative of the President, is vested in the Congress of the United States, composed of the Senate and House of Representatives. The executive power is vested exclusively in the President, except that in the conclusion of treaties and in certain appointments to office, he is to act with the advice and consent of the Senate. The judicial power is vested exclusively in the Supreme and other courts of the United States, except in cases of impeachment, for which purpose the accusatory power is vested in the House of Representatives, and that of hearing and determining in the Senate. But although for the special purposes which have been mentioned, there is an occasional intermixture of the powers of the different departments, yet with these exceptions, each of the three great departments is independent of the others in its sphere of action; and when it deviates from that sphere, is not responsible to the others, further than it is expressly made so in the constitution. In every other respect, each of them is the co-equal of the other two, and all are the servants of the American people, without power or right to control or censure each other in the service of their common superior, save only in the manner and to the degree which that superior has prescribed.

The responsibilities of the President are numerous and weighty. He is liable to impeachment for high crimes and misdemeanors, and, on due conviction, to removal from office, and perpetual disqualification; and notwithstanding such conviction, he may also be indicted and punished according to law. He is also liable to the private action of any party who may have been injured by his illegal mandates or instructions, in the same manner and to the same extent as the humblest functionary. In addition to the responsibilities which may thus be enforced by impeachment, criminal prosecution, or suit at law, he is also accountable at the bar of public opinion, for every act of his administration. Subject only to the restraints of truth and justice, the free people of the United States have the undoubted right, as individuals or collectively, orally or in writing, at such times, and in such language and form as they may think proper, to discuss his official conduct, and to express and promulgate their opinions concerning it. Indirectly, also, his conduct may come under review in either branch of the legislature, or in the Senate when acting in its executive capacity; and so far as the executive or legislative proceedings of these bodies may require it, it may be examined by them. These are believed to be the proper and only modes in which the President of the United States is to be held accountable for his official conduct.

Tested by these principles, the resolution of the Senate is wholly unauthorized by the constitution, and in derogation of its entire spirit. It assumes that a single branch of the legislative department may, for the purpose of a public censure, and with-

out any view to legislation or impeachment, take up, consider, and decide upon, the official acts of the Executive. But in no part of the constitution is the President subjected to any such responsibility; and in no part of that instrument is any such power conferred on either branch of the legislature.

The justice of these conclusions will be illustrated and confirmed by a brief analysis of the powers of the Senate, and a comparison of their recent proceedings with those powers.

The high functions assigned by the constitution to the Senate, are in their nature either legislative, executive, or judicial. It is only in the exercise of its judicial powers, when sitting as a court for the trial of impeachments, that the Senate is expressly authorized and necessarily required to consider and decide upon the conduct of the President, or any other public officer. Indirectly, however, as has already been suggested, it may frequently be called on to perform that office. Cases may occur in the course of its legislative or executive proceedings, in which it may be indispensable to the proper exercise of its powers, that it should inquire into, and decide upon, the conduct of the President or other public officers; and in every such case, its constitutional right to do so is cheerfully conceded. But to authorize the Senate to enter on such a task in its legislative or executive capacity, the inquiry must actually grow out of and tend to some legislative or executive action; and the decision, when expressed, must take the form of some appropriate legislative or executive act.

The resolution in question was introduced, discussed, and passed, not as a joint, but as a separate resolution. It asserts no legislative power; proposes no legislative action; and neither possesses the form nor any of the attributes of a legislative measure. It does not appear to have been entertained or passed with any view or expectation of its issuing in a law or joint resolution, or in the repeal of any law or joint resolution, or in any other legislative action.

Whilst wanting both the form and substance of a legislative measure, it is equally manifest that the resolution was not justified by any of the executive powers conferred on the Senate. These powers relate exclusively to the consideration of treaties and nominations to office; and they are exercised in secret session, and with closed doors. This resolution does not apply to any treaty or nomination, and was passed in a public session.

Nor does this proceeding in any way belong to that class of incidental resolutions which relate to the officers of the Senate, to their chamber, and other appurtenances, or to subjects of order, and other matters of the like nature—in all which either House may lawfully proceed, without any co-operation with the other, or with the President.

On the contrary, the whole phraseology and sense of the resolution seem to be judicial. Its essence, true character, and only practical effect, are to be found in the conduct which it charges upon the President, and in the judgment which it pronounces on that conduct. The resolution, therefore, though discussed and adopted by the Senate in its legislative capacity, is, in its office, and in all its characteristics, essentially judicial.

That the Senate possesses a high judicial power, and that instances may occur in which the President of the United States will be amenable to it, is undeniable. But under the provisions of the con-

stitution, it would seem to be equally plain that neither the President nor any other officer can be rightfully subjected to the operation of the judicial power of the Senate, except in the cases and under the forms prescribed by the constitution.

The constitution declares that "the President, Vice President, and all civil officers of the United States, shall be removed from office on impeachment for, and conviction of treason, bribery, or other high crimes and misdemeanors"—that the House of Representatives "shall have the sole power of impeachment"—that the Senate "shall have the sole power to try all impeachments"—that "when sitting for that purpose, they shall be on oath or affirmation"—that "when the President of the United States is tried, the Chief Justice shall preside"—that "no person shall be convicted without the concurrence of two-thirds of the members present"—and that "judgment shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust, or profit, under the United States."

The resolution above quoted charges, in substance, that in certain proceedings relating to the public revenue, the President has usurped authority and power not conferred upon him by the constitution and laws, and that in doing so he violated both. Any such act constitutes a high crime—one of the highest, indeed, which the President can commit—a crime which justly exposes him to impeachment by the House of Representatives, and upon due conviction, to removal from office, and to the complete and immutable disfranchisement prescribed by the constitution.

The resolution, then, was in substance an impeachment of the President; and in its passage, amounts to a declaration, by a majority of the Senate, that he is guilty of an impeachable offence. As such, it is spread upon the Journals of the Senate—published to the nation and to the world—made part of our enduring archives—and incorporated in the history of the age. The punishment of removal from office and future disqualification, does not, it is true, follow this decision; nor would it have followed the like decision, if the regular forms of proceeding had been pursued, because the requisite number did not concur in the result. But the moral influence of a solemn declaration, by a majority of the Senate, that the accused is guilty of the offence charged upon him, has been as effectually secured, as if the like declaration had been made upon an impeachment expressed in the same terms. Indeed, a greater practical effect has been gained, because the votes given for the resolution, though not sufficient to authorize a judgment of guilty on an impeachment, were numerous enough to carry that resolution.

That the resolution does not expressly allege that the assumption of power and authority which it condemns, was intentional and corrupt, is no answer to the preceding view of its character and effect. The act thus condemned, necessarily implies volition and design in the individual to whom it is imputed; and being unlawful in its character, the legal conclusion is, that it was prompted by improper motives, and committed with an unlawful intent. The charge is not of a mistake in the exercise of supposed powers, but of the assumption of powers not conferred by the constitution and laws, but in derogation of both; and nothing is suggested to excuse or palliate the turpitude of the act.

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In the absence of any such excuse or palliation, there is only room for one inference, and that is, that the intent was unlawful and corrupt. Besides, the resolution not only contains no mitigating suggestion, but, on the contrary, it holds up the act complained of, as justly obnoxious to censure and reprobation; and thus as distinctly stamps it with impurity of motive, as if the strongest epithets had been used.

The President of the United States, therefore, has been, by a majority of his constitutional triers, accused and found guilty of an impeachable offence: but in no part of this proceeding have the directions of the constitution been observed.

The impeachment, instead of being preferred and prosecuted by the House of Representatives, originated in the Senate, and was prosecuted without the aid or concurrence of the other House. The oath or affirmation prescribed by the constitution, was not taken by the Senators—the Chief Justice did not preside—no notice of the charge was given to the accused—and no opportunity afforded him to respond to the accusation—to meet his accusers face to face—to cross-examine the witnesses—to procure counteracting testimony—or to be heard in his defence.

The safeguards and formalities which the constitution has connected with the power of impeachment, were doubtless supposed by the framers of that instrument, to be essential to the protection of the public servant, to the attainment of justice, and to the order, impartiality, and dignity of the procedure. These safeguards and formalities were not only practically disregarded, in the commencement and conduct of these proceedings, but in their result, I find myself convicted, by less than two-thirds of the members present, of an impeachable offence.

In vain may it be alleged in defence of this proceeding, that the form of the resolution is not that of an impeachment, or of a judgment thereupon; that the punishment prescribed in the constitution does not follow its adoption; or that in this case, no impeachment is to be expected from the House of Representatives. It is because it did not assume the form of an impeachment, that it is the more palpably repugnant to the constitution; for it is through that form only that the President is judicially responsible to the Senate; and though neither removal from office nor future disqualification ensues, yet it is not to be presumed that the framers of the constitution considered either or both of those results, as constituting the whole of the punishment they prescribed. The judgment of guilty by the highest tribunal in the Union; the stigma it would inflict on the offender, his family and fame; and the perpetual record on the Journal, handing down to future generations the story of his disgrace, were doubtless regarded by them as the bitterest portions, if not the very essence of that punishment. So far, therefore, as some of its most material parts are concerned, the passage, recording, and promulgation of the resolution, are an attempt to bring them on the President, in a manner unauthorized by the constitution. To shield him and other officers who are liable to impeachment, from consequences so momentous, except when really merited by official delinquencies, the constitution has most carefully guarded the whole process of impeachment. A majority of the House of Representatives must think the officer guilty, before he can be charged. Two-thirds of the Senate must pronounce him guilty, or

he is deemed to be innocent. Forty-six Senators appear by the Journal to have been present when the vote on the resolution was taken. If, after all the solemnities of an impeachment, thirty of those Senators had voted that the President was guilty, yet would he have been acquitted; but by the mode of proceeding adopted in the present case, a lasting record of conviction has been entered up by the votes of twenty-six Senators, without an impeachment of trial; whilst the constitution expressly declares that to the entry of such a judgment, an accusation by the House of Representatives, a trial by the Senate, and a concurrence of two-thirds in the vote of guilty, shall be indispensable prerequisites.

Whether or not an impeachment was to be expected from the House of Representatives, was a point on which the Senate had no constitutional right to speculate, and in respect to which, even had it possessed the spirit of prophecy, its anticipations would have furnished no just grounds for this procedure. Admitting that there was reason to believe that a violation of the constitution and laws had been actually committed by the President, still it was the duty of the Senate, as his sole constitutional judges, to wait for an impeachment until the other House should think proper to prefer it. The members of the Senate could have no right to infer that no impeachment was intended. On the contrary, every legal and rational presumption on their part ought to have been, that if there was good reason to believe him guilty of an impeachable offence, the House of Representatives would perform its constitutional duty by arraigning the offender before the justice of his country. The contrary presumption would involve an application derogatory to the integrity and honor of the representatives of the people. But suppose the suspicion thus implied were actually entertained, and for good cause, how can it justify the assumption by the Senate of powers not conferred by the constitution?

It is only necessary to look at the condition in which the Senate and the President have been placed by this proceeding, to perceive its utter incompatibility with the provisions and the spirit of the constitution, and with the plainest dictates of humanity and justice.

If the House of Representatives shall be of opinion that there is just ground for the censure pronounced upon the President, then will it be the solemn duty of that House to prefer the proper accusation, and to cause him to be brought to trial by the constitutional tribunal. But in what condition would he find that tribunal? A majority of its members have already considered the case, and have not only formed, but expressed a deliberate judgment upon its merits. It is the policy of our benign systems of jurisprudence, to secure, in all criminal proceedings, and even in the most trivial litigations, a fair, unprejudiced, and impartial trial. And surely it cannot be less important that such a trial should be secured to the highest officer of the Government.

The constitution makes the House of Representatives the exclusive judges, in the first instance, of the question, whether the President has committed an impeachable offence. A majority of the Senate, whose interference with this preliminary question has, for the best of all reasons, been studiously excluded, anticipate the action of the House of Representatives, assume not only the function which

belongs exclusively to that body, but convert themselves into accusers, witnesses, counsel, and judges, and prejudge the whole case—thus presenting the appalling spectacle, in a free State, of judges going through a labored preparation for an impartial hearing and decision, by a previous *ex parte* investigation and sentence against the supposed offender.

There is no more settled axiom in that government whence we derived the model of this part of our constitution, than that "the Lords cannot impeach any to themselves, nor join in the accusation, because they are judges." Independently of the general reasons on which this rule is founded, its propriety and importance are greatly increased by the nature of the impeaching power. The power of arraigning the high officers of government before a tribunal whose sentence may expel them from their seats and brand them as infamous, is eminently a popular remedy—a remedy designed to be employed for the protection of private right and public liberty, against the abuses of injustice and the encroachments of arbitrary power. But the framers of the constitution were also undoubtedly aware, that this formidable instrument had been, and might be abused; and that from its very nature, an impeachment for high crimes and misdemeanors, whatever may be its result, would in most cases be accompanied by so much of dishonor and reproach, solicitude and suffering, as to make the power of preferring it, one of the highest solemnity and importance. It was due to both these considerations, that the impeaching power should be lodged in the hands of those who, from the mode of their election and the tenure of their offices, would most accurately express the popular will, and at the same time be most directly and speedily amenable to the people. The theory of these wise and benignant intentions is, in the present case, effectually defeated by the proceedings of the Senate. The members of that body represent, not the people, but the States, and though they are undoubtedly responsible to the States, yet, from their extended term of service, the effect of that responsibility, during the whole period of that term, must very much depend upon their own impressions of its obligatory force. When a body, thus constituted, expresses, beforehand, its opinion in a particular case, and thus indirectly invites a prosecution, it not only assumes a power intended for wise reasons to be confined to others, but it shields the latter from that exclusive and personal responsibility under which it was intended to be exercised, and reverses the whole scheme of this part of the constitution.

Such would be some of the objections to this procedure, even if it were admitted that there is just ground for imputing to the President the offences charged in the resolution. But if, on the other hand, the House of Representatives shall be of opinion that there is no reason for charging them upon him, and shall therefore deem it improper to prefer an impeachment, then will the violation of privilege as it respects that House, of justice as it regards the President, and of the constitution as it relates to both, be only the more conspicuous and impressive.

The constitutional mode of procedure on an impeachment has not only been wholly disregarded, but some of the first principles of natural right and enlightened jurisprudence, have been violated in the very form of the resolution. It carefully abstains from averring in which of "the late pro-

ceedings in relation to the public revenue, the President has assumed upon himself authority and power not conferred by the constitution and laws." It carefully abstains from specifying what laws or what parts of the constitution have been violated. Why was not the certainty of the offence—"the nature and cause of the accusation"—set out in the manner required by the constitution, before even the humblest individual, for the smallest crime, can be exposed to condemnation? Such a specification was due to the accused, that he might direct his defence to the real points of attack; to the people, that they might clearly understand in what particulars their institutions had been violated; and to the truth and certainty of our public annals. As the record now stands, whilst the resolution plainly charges upon the President at least one act of usurpation in "the late Executive proceedings in relation to the public revenue," and is so framed that those Senators who believed that one such act, and only one, had been committed, could assent to it, its language is yet broad enough to include several such acts; and so it may have been regarded by some of those who voted for it. But though the accusation is thus comprehensive in the measures it implies, there is no such certainty of time, place, or circumstance, as to exhibit the particular conclusion of fact or law which induced any one Senator to vote for it. And it may well have happened, that whilst one Senator believed that some particular act embraced in the resolution, was an arbitrary and unconstitutional assumption of power, others of the majority may have deemed that very act both constitutional and expedient, or if not expedient, yet still within the pale of the constitution. And thus a majority of the Senators may have been enabled to concur, in a vague and undefined accusation, that the President, in the course of "the late Executive proceedings in relation to the public revenue," had violated the constitution and laws; whilst, if a separate vote had been taken in respect to each particular act included within the general terms, the accusers of the President might, on any such vote, have been found in the minority.

Still further to exemplify this feature of the proceeding, it is important to be remarked, that the resolution, as originally offered to the Senate, specified, with adequate precision, certain acts of the President, which it denounced as a violation of the constitution and laws, and that it was not until the very close of the debate, and when, perhaps, it was apprehended that a majority might not sustain the specific accusation contained in it, that the resolution was so modified as to assume its present form. A more striking illustration of the soundness and necessity of the rules which forbid vague and indefinite generalities, and require a reasonable certainty in all judicial allegations, and a more glaring instance of the violation of those rules, has seldom been exhibited.

In this view of the resolution, it must certainly be regarded, not as a vindication of any particular provision of the law or the constitution, but simply as an official rebuke or condemnatory sentence, too general and indefinite to be easily repelled, but yet sufficiently precise to bring into discredit the conduct and motives of the Executive. But whatever it may have been intended to accomplish, it is obvious that the vague, general, and abstract form of the resolution, is in perfect keeping with those other departures from first principles and settled

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improvements in jurisprudence, so properly the boast of free countries in modern times. And it is not too much to say of the whole of these proceedings, that, if they shall be approved and sustained by an intelligent people, then will that great contest with arbitrary power, which had established in statutes, in bills of rights, in sacred charters, and in constitutions of government, the right of every citizen to a notice before trial, to a hearing before conviction, and to an impartial tribunal for deciding on the charge, have been waged in vain.

If the resolution had been left in its original form, it is not to be presumed that it could ever have received the assent of a majority of the Senate, for the acts therein specified as violations of the constitution and laws were clearly within the limits of the Executive authority. They are, the "dismissing the late Secretary of the Treasury because he would not, contrary to his sense of his own duty, remove the money of the United States in deposit with the Bank of the United States and its branches, in conformity with the President's opinion, and appointing his successor to effect such removal, which has been done." But as no other specification has been substituted, and as these were the "Executive proceedings in relation to the public revenue," principally referred to in the course of the discussion, they will doubtless be generally regarded as the acts intended to be denounced as "an assumption of authority and power not conferred by the constitution or laws, but in derogation of both." It is, therefore, due to the occasion that a condensed summary of the views of the Executive in respect to them, should be here exhibited.

By the constitution, "the executive power is vested in a President of the United States." Among the duties imposed upon him, and which he is sworn to perform, is that of "taking care that the laws be faithfully executed." Being thus made responsible for the entire action of the executive department, it was but reasonable that the power of appointing, overseeing, and controlling those who execute the laws—a power in its nature executive—should remain in his hands. It is, therefore, not only his right, but the constitution makes it his duty, to "nominate, and by and with the advice and consent of the Senate appoint," all "officers of the United States whose appointments are not in the constitution otherwise provided for," with a proviso that the appointment of inferior officers may be vested in the President alone, in the courts of justice, or in the heads of departments.

The executive power vested in the Senate, is neither that of "nominating" nor "appointing." It is merely a check upon the Executive power of appointment. If individuals proposed for appointment by the President, are by them deemed incompetent or unworthy, they may withhold their consent, and the appointment cannot be made. They check the action of the Executive, but cannot, in relation to those very subjects, act themselves, nor direct him. Selections are still made by the President, and the negative given to the Senate, without diminishing his responsibility, furnishes an additional guarantee to the country that the subordinate executive, as well as the judicial offices, shall be filled with worthy and competent men.

The whole executive power being vested in the President, who is responsible for its exercise, it is a necessary consequence, that he should have a right

to employ agents of his own choice to aid him in the performance of his duties, and to discharge them when he is no longer willing to be responsible for their acts. In strict accordance with this principle, the power of removal, which, like that of appointment, is an original executive power, is left unchecked by the constitution in relation to all executive officers, for whose conduct the President is responsible, while it is taken from him in relation to judicial officers, for whose acts he is not responsible. In the Government from which many of the fundamental principles of our system are derived, the head of the executive department originally had power to appoint and remove at will all officers, executive and judicial. It was to take the judges out of this general power of removal, and thus make them independent of the Executive, that the tenure of their offices was changed to good behavior. Nor is it conceivable, why they are placed, in our constitution, upon a tenure different from that of all other officers appointed by the Executive, unless it be for the same purpose.

But if there were any just ground for doubt on the face of the constitution, whether all executive officers are removable at the will of the President, it is obviated by the contemporaneous construction of the instrument, and the uniform practice under it.

The power of removal was a topic of solemn debate in the Congress of 1789, while organizing the administrative departments of the Government, and it was finally decided, that the President derived from the constitution the power of removal, so far as it regards that department for whose acts he is responsible. Although the debate covered the whole ground, embracing the Treasury as well as all the other executive departments, it arose on a motion to strike out of the bill to establish a department of Foreign Affairs, since called the Department of State, a clause declaring the Secretary "to be removable from office by the President of the United States." After that motion had been decided in the negative, it was perceived that these words did not convey the sense of the House of Representatives, in relation to the true source of the power of removal. With the avowed object of preventing any future inference, that this power was exercised by the President in virtue of a grant from Congress, when in fact that body considered it as derived from the constitution, the words which had been the subject of debate were struck out, and in lieu thereof a clause was inserted in a provision concerning the chief clerk of the department, which declared that "whenever the said principal officer shall be removed from office by the President of the United States, or in any other case of vacancy," the chief clerk should, during such vacancy, have charge of the papers of the office. This change having been made for the express purpose of declaring the sense of Congress, that the President derived the power of removal from the constitution, the act as it passed has always been considered as a full expression of the sense of the legislature on this important part of the American constitution.

Here, then, we have the concurrent authority of President Washington, of the Senate, and the House of Representatives, numbers of whom had taken an active part in the convention which framed the constitution, and in the State conventions which adopted it, that the President derived an unqualified power of removal from that instrument itself, which is

"beyond the reach of legislative authority." Upon this principle the Government has now been steadily administered for about forty-five years, during which there have been numerous removals made by the President or by his direction, embracing every grade of executive officers, from the heads of departments to the messengers of bureaus.

The Treasury Department, in the discussions of 1789, was considered on the same footing as the other executive departments, and in the act establishing it, the precise words were incorporated, indicative of the sense of Congress that the President derives his power to remove the Secretary, from the constitution, which appear in the act establishing the Department of Foreign Affairs. An assistant Secretary of the Treasury was created, and it was provided that he should take charge of the books and papers of the department, "whenever the Secretary shall be removed from office by the President of the United States." The Secretary of the Treasury being appointed by the President, and being considered as constitutionally removable by him, it appears never to have occurred to any one in the Congress of 1789, or since, until very recently, that he was other than an executive officer, the mere instrument of the Chief Magistrate in the execution of the laws, subject, like all other heads of departments, to his supervision and control. No such idea as an officer of the Congress can be found in the constitution, or appears to have suggested itself to those who organized the Government. There are officers of each House, the appointment of which is authorized by the constitution, but all officers referred to in that instrument as coming within the appointing power of the President, whether established thereby or created by law, are "officers of the United States." No joint power of appointment is given to the two Houses of Congress, nor is their any accountability to them as one body; but as soon as any office is created by law, of whatever name or character, the appointment of the person or persons to fill it, devolves by the constitution upon the President, with the advice and consent of the Senate, unless it be an inferior office, and the appointment be vested by the law itself "in the President alone, in the courts of law, or in the heads of departments."

But at the time of the organization of the Treasury Department, an incident occurred which distinctly evinces the unanimous concurrence of the first Congress in the principle that the Treasury Department is wholly executive in its character and responsibilities. A motion was made to strike out the provision of the bill making it the duty of the Secretary "to digest and report plans for the improvement and management of the revenue, and for the support of the public credit," on the ground that it would give the executive department of the Government too much influence and power in Congress. The motion was not opposed on the ground, that the Secretary was the officer of Congress and responsible to that body, which would have been conclusive, if admitted, but on other grounds, which conceded his executive character throughout. The whole discussion evinces a unanimous concurrence in the principle, that the Secretary of the Treasury is wholly an executive officer, and the struggle of the minority was to restrict his power as such. From that time down to the present, the Secretary of the Treasury, the Treasurer, Register, Comptrollers, Auditors, and Clerks, who fill the offices of that

department, have, in the practice of the Government, been considered and treated as on the same footing with corresponding grades of officers in all the other executive departments.

The custody of the public property, under such regulations as may be prescribed by legislative authority, has always been considered an appropriate function of the executive department, in this and all other Governments. In accordance with this principle, every species of property belonging to the United States, (excepting that which is in the use of the several co-ordinate departments of the Government, as means to aid them in performing their appropriate functions,) is in charge of officers appointed by the President, whether it be lands, or buildings, or merchandise, or provisions, or clothing, or arms and munitions of war. The superintendents and keepers of the whole are appointed by the President, responsible to him, and removable at his will.

Public money is but a species of public property. It cannot be raised by taxation or custom, nor brought into the Treasury in any other way, except by law; but whenever or howsoever obtained, its custody always has been, and always must be, unless the constitution be changed, intrusted to the executive department. No officer can be created by Congress for the purpose of taking charge of it, whose appointment would not, by the constitution, at once devolve on the President, and who would not be responsible to him for the faithful performance of his duties. The legislative power may undoubtedly bind him and the President, by any law they may think proper to enact; they may prescribe in what place particular portions of the public money shall be kept, and for what reason it shall be removed; as they may direct that supplies for the army or navy shall be kept in particular stores; and it will be the duty of the President to see that the law is faithfully executed—yet will the custody remain in the executive department of the Government. Were the Congress to assume, with or without a legislative act, the power of appointing officers independently of the President, to take the charge and custody of the public property contained in the military and naval arsenals, magazines, and storehouses, it is believed that such an act would be regarded by all as a palpable usurpation of executive power, subversive of the form as well as the fundamental principles of our Government. But where is the difference in principle, whether the public property be in the form of arms, munitions of war and supplies, or in gold and silver or bank notes? None can be perceived—none is believed to exist. Congress cannot, therefore, take out of the hands of the executive department the custody of the public property or money, without an assumption of executive power, and a subversion of the first principles of the constitution.

The Congress of the United States have never passed an act imperatively directing that the public moneys shall be kept in any particular place or places. From the origin of the Government to the year 1816, the statute-book was wholly silent on the subject. In 1789 a Treasurer was created, subordinate to the Secretary of the Treasury, and through him to the President. He was required to give bond safely to keep and faithfully to disburse the public moneys, without any direction as to the manner or places in which they should be kept. By reference to the practice of the Government, it

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is found, that from its first organization, the Secretary of the Treasury, acting under the supervision of the President, designated the places in which the public moneys should be kept, and specially directed all transfers from place to place. This practice was continued, with the silent acquiescence of Congress, from 1789 down to 1816; and although many banks were selected and discharged, and although a portion of the moneys was first placed in the State banks, and then in the former Bank of the United States, and upon the dissolution of that, was again transferred to the State banks, no legislation was thought necessary by Congress, and all the operations were originated and perfected by executive authority. The Secretary of the Treasury, responsible to the President, and with his approbation, made contracts and arrangements in relation to the whole subject-matter, which was thus entirely committed to the direction of the President, under his responsibilities to the American people, and to those who were authorized to impeach and punish him for any breach of this important trust.

The act of 1816, establishing the Bank of the United States, directed the deposits of public money to be made in that bank and its branches, in places in which the said bank and branches thereof may be established, "unless the Secretary of the Treasury should otherwise order and direct," in which event, he was required to give his reasons to Congress. This was but a continuation of his pre-existing powers as the head of an executive department, to direct where the deposits should be made, with the superadded obligation of giving his reasons to Congress for making them elsewhere than in the Bank of the United States and its branches. It is not to be considered that this provision in any degree altered the relation between the Secretary of the Treasury and the President, as the responsible head of the executive department, or released the latter from his constitutional obligation to "take care that the laws be faithfully executed." On the contrary, it increased his responsibilities, by adding another to the long list of laws which it was his duty to carry into effect.

It would be an extraordinary result, if, because the person charged by law with a public duty is one of the Secretaries, it were less the duty of the President to see that law faithfully executed than other laws enjoining duties upon subordinate officers or private citizens. If there be any difference, it would seem that the obligation is the stronger in relation to the former, because the neglect is in his presence and the remedy at hand.

It cannot be doubted that it was the legal duty of the Secretary of the Treasury to order and direct the deposits of the public money to be made elsewhere than in the Bank of the United States, whenever sufficient reasons existed for making the change. If, in such a case, he neglected or refused to act, he would neglect or refuse to execute the law. What would then be the sworn duty of the President? Could he say that the constitution did not bind him to see the law faithfully executed, because it was one of his Secretaries, and not himself, upon whom the service was specially imposed? Might he not be asked whether there was any such limitation to his obligations prescribed in the constitution?—whether he is not equally bound to take care that the laws be faithfully executed, whether they impose duties on the highest officer of State, or the lowest subordinate in any of the departments?

Might he not be told, that it was for the sole purpose of causing all executive officers, from the highest to the lowest, faithfully to perform the services required of them by law—that the people of the United States have made him their Chief Magistrate, and the constitution has clothed him with the entire executive power of this Government? The principles implied in these questions appear too plain to need elucidation.

But here, also, we have a contemporaneous construction of the act, which shows that it was not understood as in any way changing the relations between the President and Secretary of the Treasury, or as placing the latter out of Executive control, even in relation to the deposits of the public money. Nor on this point are we left to any equivocal testimony. The documents of the Treasury Department show that the Secretary of the Treasury did apply to the President, and obtained his approbation and sanction to the original transfer of the public deposits to the present Bank of the United States, and did carry the measure into effect in obedience to his decision. They also show that transfers of the public deposits from the branches of the Bank of the United States to State banks, at Chillicothe, Cincinnati, and Louisville, in 1819, were made with the approbation of the President, and by his authority. They show, that upon all important questions appertaining to his department, whether they related to the public deposits or other matters, it was the constant practice of the Secretary of the Treasury to obtain for his acts the approval and sanction of the President. These acts, and the principles on which they were founded, were known to all the departments of the Government, to Congress, and the country; and, until very recently, appear never to have been called in question.

Thus was it settled by the constitution, the laws, and the whole practice of the Government, that the entire executive power is vested in the President of the United States; that, as incident to that power, the right of appointing and removing those officers who are to aid him in the execution of the laws, with such restrictions only as the constitution prescribes, is vested in the President; that the Secretary of the Treasury is one of those officers; that the custody of the public property and money is an executive function, which, in relation to the money, has always been exercised through the Secretary of the Treasury and his subordinates; that in the performance of these duties, he is subject to the supervision and control of the President, and in all important measures having relation to them consults the Chief Magistrate, and obtains his approval and sanction; that the law establishing the bank did not, as it could not, change the relation between the President and the Secretary—did not release the former from his obligation to see the law faithfully executed, nor the latter from the President's supervision and control; that afterwards, and before, the Secretary did in fact consult and obtain the sanction of the President, to transfers and removals of the public deposits; and that all departments of the Government, and the nation itself, approved or acquiesced in these acts and principles, as in strict conformity with our constitution and laws.

During the last year, the approaching termination, according to the provisions of its charter, and the solemn decision of the American people, of the

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Bank of the United States, made it expedient, and its exposed abuses and corruptions made it, in my opinion, the duty of the Secretary of the Treasury, to place the moneys of the United States in other depositories. The Secretary did not concur in that opinion, and declined giving the necessary order and direction. So glaring were the abuses and corruptions of the bank, so evident its fixed purpose to persevere in them, and so palpable its design, by its money and power, to control the government, and change its character, that I deemed it the imperative duty of the executive authority, by the exertion of every power confided to it by the constitution and laws, to check its career, and lessen its ability to do mischief, even in the painful alternative of dismissing the head of one of the departments. At the time the removal was made, other causes sufficient to justify it existed; but, if they had not, the Secretary would have been dismissed for this cause only.

His place I supplied by one whose opinions were well known to me, and whose frank expressions of them, in another situation, and whose generous sacrifices of interest and feeling, when unexpectedly called to the station he now occupies, ought forever to have shielded his motives from suspicion, and his character from reproach. In accordance with the opinions long before expressed by him, he proceeded, with my sanction, to make arrangements for depositing the moneys of the United States in other safe institutions.

The resolution of the Senate, as originally framed, and as passed, if it refers to these acts, pre-supposes a right in that body to interfere with this exercise of executive power. If the principle be once admitted, it is not difficult to perceive where it may end. If, by a mere denunciation like this resolution, the President should ever be induced to act, in a matter of official duty, contrary to the honest convictions of his own mind, in compliance with the wishes of the Senate, the constitutional independence of the executive department would be as effectually destroyed, and its power as effectually transferred to the Senate, as if that end had been accomplished by an amendment of the constitution. But, if the Senate have a right to interfere with the executive powers, they have also the right to make that interference effective; and if the assertion of the power implied in the resolution be silently acquiesced in, we may reasonably apprehend that it will be followed, at some future day, by an attempt at actual enforcement. The Senate may refuse, except on the condition that he will surrender his opinions to theirs and obey their will, to perform their own constitutional functions; to pass the necessary laws; to sanction appropriations proposed by the House of Representatives; and to confirm proper nominations made by the President. It has already been maintained (and it is not conceivable that the resolution of the Senate can be based on any other principle) that the Secretary of the Treasury is the officer of Congress, and independent of the President; that the President has no right to control him, and consequently none to remove him. With the same propriety, and on similar grounds, may the Secretary of State, the Secretaries of War and the Navy, and the Postmaster General, each in succession, be declared independent of the President, the subordinates of Congress, and removable only with the concurrence of the Senate. Followed to its conse-

quences this principle will be found effectually to destroy one co-ordinate department of the Government, to concentrate in the hands of the Senate the whole executive power, and to leave the President as powerless as he would be useless—the shadow of authority, after the substance had departed.

The time and the occasion which have called forth the resolution of the Senate, seem to impose upon me an additional obligation not to pass it over in silence. Nearly forty-five years had the President exercised, without a question as to his rightful authority, those powers for the recent assumption of which he is now denounced. The vicissitudes of peace and war had attended our Government; violent parties, watchful to take advantage of any seeming usurpation on the part of the Executive, had distracted our counsels; frequent removals, or forced resignations, in every sense tantamount to removals, had been made of the Secretary and other officers of the Treasury; and yet in no one instance is it known, that any man, whether patriot or partisan, had raised his voice against it as a violation of the constitution. The expediency and justice of such changes, in reference to public officers of all grades, have frequently been the topics of discussion; but the constitutional right of the President to appoint, control, and remove the head of the Treasury, as well as all other departments, seems to have been universally conceded. And what is the occasion upon which other principles have been first officially asserted. The Bank of the United States, a great moneyed monopoly, had attempted to obtain a renewal of its charter, by controlling the elections of the people and the action of the Government. The use of its corporate funds and power in that attempt was fully disclosed; and it made known to the President that the corporation was putting in train the same course of measures, with the view of making another vigorous effort, through an interference in the elections of the people, to control public opinion and force the Government to yield to its demands. This, with its corruption of the press, its violation of its charter, its exclusion of the Government directors from its proceedings, its neglect of duty, and arrogant pretensions, made it, in the opinion of the President, incompatible with the public interest and the safety of our institutions, that it should be longer employed as the fiscal agent of the Treasury. A Secretary of the Treasury, appointed in the recess of the Senate, who had not been confirmed by that body and whom the President might or might not at his pleasure nominate to them, refused to do what his superior in the executive department considered the most imperative of his duties, and became in fact, however innocent his motives, the protector of the bank. And on this occasion it is discovered for the first time, that those who framed the constitution misunderstood it; that the first Congress and all its successors have been under a delusion; that the practice of near forty-five years is but a continued usurpation; that the Secretary of the Treasury is not responsible to the President; and that to remove him is a violation of the constitution and laws, for which the President deserves to stand forever dishonored on the Journals of the Senate.

There are also some other circumstances connected with the discussion and passage of the resolution, to which I feel it to be, not only my right, but my duty, to refer. It appears by the Journal

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of the Senate, that among the twenty-six Senators who voted for the resolution on its final passage, and who had supported it in debate, in its original form, were one of the Senators from the State of Maine, the two Senators from New Jersey, and one of the Senators from Ohio. It also appears by the same Journal, and by the files of the Senate, that the legislatures of these States had severally expressed their opinions in respect to the Executive proceedings drawn in question before the Senate.

The two branches of the legislature of the State of Maine, on the 25th of January, 1834, passed a preamble and series of resolutions in the following words:

[Here follows extracts from the legislative journals of the three States referred to, approving the President's conduct in removing the deposits, and instructing their Senators to sustain that act of the President.]

It is thus seen that four Senators have declared, by their votes, that the President, in the late executive proceedings in relation to the revenue, had been guilty of the impeachable offence of "assuming upon himself authority and power not conferred by the constitution and laws, but in derogation of both," whilst the legislatures of their respective States had deliberately approved those very proceedings, as consistent with the constitution, and demanded by the public good. If these four votes had been given in accordance with the sentiments of the legislatures, as above expressed, there would have been but twenty-two votes out of forty-six for censuring the President, and the unprecedented record of his conviction could not have been placed upon the Journals of the Senate.

In thus referring to the resolutions and instructions of the State legislatures, I disclaim and repudiate all authority or design to interfere with the responsibility due from members of the Senate to their own consciences, their constituents, and their country. The facts now stated belong to the history of these proceedings, and are important to the just development of the principles and interests involved in them, as well as to the proper vindication of the executive department; and with that view, and that view only, are they here made the topic of remark.

The dangerous tendency of the doctrine which denies to the President the power of supervising, directing, and removing the Secretary of the Treasury, in like manner with the other executive officers, would soon be manifest in practice, were the doctrine to be established. The President is the direct representative of the American people, but the Secretaries are not. If the Secretary of the Treasury be independent of the President in the execution of the laws, then is there no direct responsibility to the people in that important branch of this Government to which is committed the care of the national finances. And it is in the power of the Bank of the United States, or any other corporation, body of men, or individuals, if a Secretary shall be found to accord with them in opinion, or can be induced in practice to promote their views, to control, through him, the whole action of the Government, (so far as it is exercised by his department,) in defiance of the Chief Magistrate elected by the people and responsible to them.

But the evil tendency of the particular doctrine adverted to, though sufficiently serious, would be as nothing, in comparison with the pernicious conse-

quences which would inevitably flow from the approbation and allowance by the people, and the practice by the Senate, of the unconstitutional power of arraigning and censuring the official conduct of the Executive, in the manner recently pursued. Such proceedings are eminently calculated to unsettle the foundations of the Government, to disturb the harmonious action of its different departments, and to break down the checks and balances by which the wisdom of its framers sought to ensure its stability and usefulness.

The honest differences of opinion which occasionally exist between the Senate and the President, in regard to matters in which both are obliged to participate, are sufficiently embarrassing. But, if the course recently adopted by the Senate shall hereafter be frequently pursued, it is not only obvious that the harmony of the relations between the President and the Senate will be destroyed, but that other and graver effects will ultimately ensue. If the censures of the Senate be submitted to by the President, the confidence of the people in his ability and virtue, and the character and usefulness of his administration will soon be at an end, and the real power of the Government will fall into the hands of a body holding their offices for long terms, not elected by the people, and not to them directly responsible. If, on the other hand, the illegal censures of the Senate should be resisted by the President, collisions and angry controversies might ensue, discreditable in their progress, and, in the end, compelling the people to adopt the conclusion, either that their Chief Magistrate was unworthy of their respect, or that the Senate was chargeable with calumny and injustice. Either of these results would impair public confidence in the perfection of the system, and lead to serious alterations of its frame work, or to the practical abandonment of some of its provisions.

The influence of such proceedings on the other departments of the Government, and more especially on the States, could not fail to be extensively pernicious. When the judges, in the last resort of official misconduct, themselves overleap the bounds of their authority, as prescribed by the constitution, what general disregard of its provisions might not their example be expected to produce? And who does not perceive that such contempt of the Federal constitution, by one of its most important departments, would hold out the strongest temptation to resistance on the part of the State sovereignties, whenever they shall suppose their just rights to have been invaded? Thus, all the independent departments of the Government, and the States which compose our confederated Union, instead of attending to their appropriate duties, and leaving those who may offend to be reclaimed or punished in the manner pointed out in the constitution, would fall to mutual crimination and recrimination, and give to the people confusion and anarchy, instead of order and law, until at length some form of aristocratic power would be established on the ruins of the constitution, or the States be broken into separate communities.

Far be it from me to charge, or to insinuate, that the present Senate of the United States intend, in the most distant way, to encourage such a result. It is not of their motives or designs, but only of the tendency of their acts, that it is my duty to speak. It is, if possible, to make Senators themselves sensible of the danger which lurks under the pre-

cedent set in their resolution, and, at any rate, to perform my duty as the responsible head of one of the co-equal departments of the Government, that I have been compelled to point out the consequences to which the discussion and passage of the resolution may lead, if the tendency of the measure be not checked in its inception.

It is due to the high trust with which I have been charged; to those who may be called to succeed me in it; to the representatives of the people, whose constitutional prerogative has been unlawfully assumed; to the people and to the States; and to the constitution they have established, that I should not permit its provisions to be broken down by such an attack on the executive department, without at least some effort "to preserve, protect, and defend" them. With this view, and for the reasons which have been stated, I do hereby **SOLENNLY PROTEST** against the aforementioned proceedings of the Senate, as unauthorized by the constitution; contrary to its spirit and to several of its express provisions; subversive of that distribution of the powers of Government which it has ordained and established; destructive of the checks and safeguards by which those powers were intended, on the one hand, to be controlled, and, on the other, to be protected, and calculated, by their immediate and collateral effects, by their character and tendency, to concentrate in the hands of a body not directly amenable to the people, a degree of influence and power dangerous to their liberties, and fatal to the constitution of their choice.

The resolution of the Senate contains an imputation upon my private as well as upon my public character; and as it must stand forever on their Journals, I cannot close this substitute for that defence which I have not been allowed to present in the ordinary form, without remarking, that I have lived in vain, if it be necessary to enter into a formal vindication of my character and purposes from such an imputation. In vain do I bear upon my person, enduring memorials of that contest in which American liberty was purchased; in vain have I since perilled property, fame, and life, in defence of the rights and privileges so dearly bought; in vain am I now, without a personal aspiration, or the hope of individual advantage, encountering responsibilities and dangers, from which, by mere inactivity in relation to a single point, I might have been exempt—if any serious doubts can be entertained as to the purity of my purposes and motives. If I had been ambitious, I should have sought an alliance with that powerful institution, which even now aspires to no divided empire. If I had been venal, I should have sold myself to its designs. Had I preferred personal comfort and official ease to the performance of my arduous duty, I should have ceased to molest it. In the history of conquerors and usurpers, never, in the fire of youth, nor in the vigor of manhood, could I find an attraction to lure me from the path of duty; and now, I shall scarcely find an inducement to commence the career of ambition, when gray hairs and a decaying frame, instead of inviting to toil and battle, call me to the contemplation of other worlds, where conquerors cease to be honored, and usurpers expiate their crimes. The only ambition I can feel, is to acquit myself to Him to whom I must soon render an account of my stewardship, to serve my fellow-men, and live respected and honored in the history of my country. No; the ambition which

leads me on, is an anxious desire and a fixed determination, to return to the people, unimpaired, the sacred trust they have confided to my charge—to heal the wounds of the constitution and preserve it from further violation; to persuade my countrymen, so far as I may, that it is not in a splendid Government, supported by powerful monopolies and aristocratical establishments, that they will find happiness, or their liberties protection, but in a plain system, void of pomp—protecting all, and granting favors to none—dispensing its blessings like the dews of heaven, unseen and unfelt, save in the freshness and beauty they contribute to produce. It is such a government that the genius of our people requires—such a one only under which our States may remain for ages to come, united, prosperous, and free. If the Almighty being who has hitherto sustained and protected me, will but vouchsafe to make my feeble powers instrumental to such a result, I shall anticipate with pleasure the place to be assigned me in the history of my country, and die contented with the belief, that I have contributed in some small degree, to increase the value and prolong the duration of American liberty.

To the end that the resolution of the Senate may not be hereafter drawn into precedent, with the authority of silent acquiescence on the part of the executive department; and to the end, also, that my motives and views in the executive proceeding denounced in that resolution may be known to my fellow-citizens, to the world, and to all posterity, I respectfully request that this message and protest may be entered at length on the Journals of the Senate.

ANDREW JACKSON.

April 15th, 1834.

The Message having been read—

Mr. POINDEXTER said: I do not rise, Mr. President, to discuss at this time the various topics which are touched in the very extraordinary paper which has been just read to the Senate; nor, indeed, will I give utterance to those feelings of indignation which such a paper, coming from such a source, is so well calculated to excite in the bosom of every honorable member of this body, and of every patriotic citizen in the country. Leaving these matters for future discussion on a more suitable occasion, my purpose is at present to enter my solemn protest against the reception of this paper, and to submit a motion that it be not received. Sir, I should be disposed to go as far as any honorable Senator on this floor in paying due respect to every executive communication to the Senate, coming within the constitutional range of executive power. But when the Chief Magistrate shall think fit to depart from his constitutional sphere, and, under color of his official duties, attempt to make this body the conduit of his popular appeals to the people, fulminating, I will not say calumnies, but the most unfounded charges against the body through which he proposes to promulgate his appeal, I, for one, feel bound to resist him in such a course. Referring to the resolution introduced by the honorable Senator from Kentucky, (Mr. CLAY,) the President says that it is "both novel and unprecedented." If it be so, I should be glad

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to know what appellation ought to be given to this extraordinary paper? Has it any parallel in the past political history of the country? Sir, I venture the declaration, that there is not on record any act of the predecessors of the present Chief Magistrate bearing the slightest resemblance to this outrage on the dignity of the Senate, and the constitutional functions of the Executive Department of the Government. It may well be characterized as "both novel and unprecedented." No such paper was ever presented to either House of Congress, none such is to be found on the journals of our proceedings, as the one sent to us this morning, under the guise of official authority, from the foundation of the Government down to the present moment. Sir, I will not dignify this paper by considering it in the light of an executive message; it is no such thing. I regard it simply as a paper with the signature of Andrew Jackson, and, should the Senate refuse to receive it, it will not be the first paper with the same signature which has been refused a hearing in this body, on the ground of the abusive and vituperative language which it contained. It will be recollected, that a protest similar in its character, couched in terms grossly disrespectful to the Senate, was presented, somewhere about the year 1819, from the same individual, and such was its exceptionable character, that his own friends became ashamed of it. It was objected to, rejected, and sent back for modification, so as to render it respectful to the body to which it was presented. The offensive passages were stricken out, and, thus modified, it was presented and received at the next session of Congress. This effort to denounce and overawe the deliberations of the Senate may properly be regarded as capping the climax of that systematic plan of operations which for several years past has been in progress, designed to bring this body into disrepute among the people, and thereby remove the only existing barrier to the arbitrary encroachments and usurpations of executive power. Destroy public confidence in the Senate, which now stands, thank God, unmoved, between the Chief Magistrate and the people, and tyranny, in its worst forms, would very soon overshadow the land, and rule with an iron hand the destinies of the American people. The Senate, by its peculiar organization, is well calculated to preserve and perpetuate the great fundamental principles of public liberty to the latest posterity. Removed from popular impulses which sometimes arise in the convulsions incident to freedom of opinion, and of discussions of great political questions, it may look with calmness on the misguided multitude, misled by some popular demagogue, and thereby save the State from the deleterious consequences of errors which are the inevitable result of passion or precipitation. It is an integral part of the executive power, and, while it remains firm in its devotion to the constitution and the laws, uncorrupted by the temptations of office and emol-

ument, no Chief Magistrate, whatever may be his reckless ambition, can successfully move beyond the bounds of his legitimate powers, and ride over the liberties of the people. Hence the untiring and anxious solicitude so often manifested to bring this body, thus constituted, into disgrace among the people. If there existed at this moment no such conservative body as the Senate, power would march onward to the climax of despotism. The republic might indeed exist, nominally, but in practice we should be bound to the car of some imperial dictator.

There does not appear to be a disposition in the House at the other end of this building, to arrest the inroads of arbitrary power; there the edicts of the Executive are registered, and his acts are defended by the force of party discipline, regardless of their injurious effects on the great interests of the country—and I repeat the question, What would be the condition of the country but for the salutary intervention of that Senate which has become the object of Executive vengeance, and which he now seeks to destroy by denunciations and appeals to the sympathies of the people, founded on his past services and personal popularity? Sir, is there a single power granted in the constitution which the President has not assumed and exercised? I know of none, except that he has not, as yet, followed the example of one of the kings of England, and taken his seat among the judges, to control their judicial decisions. This seems to be the only power which the President has not grasped, to complete the overthrow of all the other departments of the Government. By the frequent and unlimited exercise of the veto power, he has concentrated in himself the entire legislative authority of the country. We may, it is true, overrule his veto, by a majority of two-thirds in both Houses of Congress; but who is there among us, with the Blue Book in his hand, exhibiting the immense patronage of the Chief Magistrate, combined with the weight of his personal influence, that does not see and feel the impossibility of obtaining a union of opinion of two-thirds of Congress against any measure which has the sanction of the President? Such a triumph never has and never will occur in the legislative history of the country. He has declared his intention of applying this tremendous veto power to every bill which does not meet his approbation; or in other words, he will apply it to any bill against which he would record his vote as a member of either House of Congress. What, then, becomes of the legislative power of Congress? We are reduced to the condition of mere drudges, and the only duty which we can perform, is to prepare bills, discuss and amend them, and adapt them, as far as we can, to the public good, and, after passing them, they must be sent to the imperial head, and he will tell us whether they shall be enacted into laws or not. He might as well dispense with the legislature altogether, and call in the aid of the judges of the Supreme Court and the Attorney-General to prepare such

bills as may suit his views, in technical language, and then issue his proclamation declaring that such and such laws had been incorporated in the statute book. Under the free use of the veto power, now for the first time introduced into practice by the President, the legislative power of the Union has dwindled into a mere mockery; the power, it is true, is qualified in the constitution, and may be controlled by two-thirds of Congress, but, in practice, it amounts to an absolute veto. He has the power of appointment and removal from office, and thereby becomes the fountain of honor, one of the high attributes of the British monarch, from whose dominion we had rescued ourselves by the war of the revolution, in asserting and maintaining the liberty and independence of these States; he is commander-in-chief of the army and navy, and, by an assumption of power not delegated in the constitution and the laws, he has effaced the broad line, wisely drawn between the power which wields the physical force of the country and the National Treasury, for the obvious reason that these powers, separated, can never be dangerous to liberty, while a combination of them, in the same hand, is the very definition of military despotism. Thus the Chief Magistrate arrogates to himself, in the last resort, the legislative authority of the nation; he is placed by the constitution at the head of the military forces and the militia of the several States, when called into actual service; he is the fountain of honor, and may distribute offices and rewards at his own good will and pleasure; he has seized the public purse, by indirection, which is placed by the constitution in the hands of the representatives of the people of the States, and, I ask, what power remains unappropriated to the executive will, which is worth speaking of, or worth contending for?

Expunging Resolution—Notice of intended Motions to Expunge from the Journals the Sentence of Condemnation against President Jackson.

Mr. BENTON said that the public mind was now to be occupied with a question of the very first moment and importance, and identical in all its features with the great question growing out of the famous resolutions of the English House of Commons in the case of the Middlesex election in the year 1768, and which engrossed the attention of the British empire for fourteen years before it was settled. That question was one in which the House of Commons was judged and condemned, for adopting a resolution which was held by the subjects of the British crown to be a violation of their constitution, and a subversion of the rights of Englishmen: the question now before the Senate, and which will go before the American people, grows out of a resolution in which he (Mr. B.) believed that the constitution had been violated—the privileges of the House of Representatives invaded—and the rights of an American citizen, in the person of the President,

subverted. The resolution of the House of Commons, after fourteen years of annual motions, was expunged from the Journal of the House; and he pledged himself to the American people to commence a similar series of motions with respect to this resolution of the Senate. He had made up his mind to do so without consultation with any human being, and without deigning to calculate the chances or the time of success. He rested under the firm conviction that the resolution of the Senate, which had drawn from the President the calm, temperate, and dignified protest, which had been read at the table, was a resolution which ought to be expunged from the Journal of the Senate; and if any thing was necessary to stimulate his sense of duty in making a motion to that effect, and in encouraging others after he was gone, in following up that motion to success, it would be found in the history and termination of the similar motion which was made in the English House of Commons to which he had referred. That motion was renewed for fourteen years—from 1768 to 1782—before it was successful. For the first seven years, the lofty and indignant majority did not condescend to reply to the motion. They smothered it under a dead vote as often as presented. The second seven years they replied; and at the end of the term, and on the assembling of a new Parliament, the veteran motion was carried by more than two to one; and the gratifying spectacle was beheld of a public expurgation, in the face of the assembled Commons of England, of the obnoxious resolution from the Journal of the House. The elections in England were septennial, and it took two terms of seven years, or two general elections, to bring the sense of the kingdom to bear upon their representatives. The elections of the Senate were sexennial, with intersalary exits and entrances, and it might take a less, or a longer period, he would not presume to say which, to bring the sense of the American people to bear upon an act of the American Senate. Of that, he would make no calculation; but the final success of the motion in the English House of Commons, after fourteen years' perseverance, was a sufficient encouragement for him to begin, and doubtless would encourage others to continue, until the good work should be crowned with success, and the only atonement made, which it was in the Senate's power to make, to the violated majesty of the constitution, the invaded privileges of the House of Representatives, and the subverted rights of an American citizen.

In bringing this great question before the American people, Mr. B. should consider himself as addressing the calm intelligence of an enlightened community. He believed the body of the American people to be the most enlightened community upon earth; and, without the least disparagement to the present Senate, he must be permitted to believe that many such Senates might be drawn from the ranks of the people, and still leave no dearth of intelligence

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[SENATE.]

behind. To such a community—in an appeal, on a great question of constitutional law, to the understandings of such a people—declamation, passion, epithets, opprobrious language, would stand for nothing. They would float, harmless and unheeded, through the empty air, and strike in vain upon the ear of a sober and dispassionate tribunal. Indignation, real or affected; wrath, however hot; fury, however enraged; asseverations, however violent; denunciations, however furious, will avail nothing. Facts—inexorable facts—are all that will be attended to; reason, calm, and self-possessed, is all that will be listened to. An intelligent tribunal will exact the respect of an address to their understandings; and he that wishes to be heard in this great question, or being heard, would wish to be heeded, will have occasion to be clear and correct in his facts; close and perspicuous in his application of law; fair and candid in his conclusions and inferences, temperate and decorous in his language; and scrupulously free from every taint of vengeance and malice. Solemnly impressed with the truth of all these convictions, it was the intention of himself, (Mr. B.,) whatever the example or the provocation might be—never to forget his place, his subject, his audience, and his object—never to forget that he was speaking in the American Senate, on a question of violated constitution and outraged individual right, to an audience comprehending the whole body of the American people, and for the purpose of obtaining a righteous decision from the calm and sober judgment of a high-minded, intelligent, and patriotic community.

The question immediately before the Senate was one of minor consequence; it might be called a question of small import, except for the effect which the decision might have upon the Senate itself. In that point of view, it might be a question of some moment; for, without reference to individuals, it was essential to the cause of free governments, that every department of the Government, the Senate inclusive, should so act as to preserve to itself the respect and the confidence of the country. The immediate question was, upon the rejection of the President's Message. It was moved to reject it—to reject it, not after it was considered, but before it was considered! and thus to tell the American people that their President shall not be heard—should not be allowed to plead his defence—in the presence of the body that condemned him—neither before the condemnation, nor after it! This is the motion, and certainly no enemy to the Senate could wish it to miscarry. The President, in the conclusion of his Message, has respectfully requested that his defence might be entered upon the Journal of the Senate—upon that same journal which contains the record of his convictions. This is the request of the President. Will the Senate deny it? Will they refuse this act of sheer justice and common decency? Will they go further, and not only refuse to place it on the Journal,

but refuse even to suffer it to remain in the Senate? Will they refuse to permit it to remain on file, but send it back, or throw it out of doors, without condescending to reply to it? for that is the exact import of the motion now made! Will Senators exhaust their minds, and their bodies also, in loading this very communication with epithets, and then say that it shall not be received? Will they receive memorials, resolutions, essays, from all that choose to abuse the President, and not receive a word of defence from him? Will they continue the spectacle which had been presented here for three months—a daily presentation of attacks upon the President from all that choose to attack him, young and old, boys and men—attacks echoing the very sound of this resolution, and which are not only received and filed here, but printed also, and referred to a committee, and introduced, each one, with a lauded commentary of set phrase? Are the Senate to receive all these, and yet refuse to receive from the object of all this attack one word of answer? In this point of view—as a question concerning the Senate itself, it may become material to the Senate, in a country and in an age when no tribunal is too high for public opinion to reach it, it may become material to the Senate, in such a country, and such an age, to reject and throw out of doors the calm and temperate defence of the President, in the midst of the reception of a thousand memorials and resolutions condemning him for the very act which he is not allowed to defend. Is he to be the only citizen who is not to be heard by the Senate? Him whom it seems to be lawful for every one whose education and manners qualifies him for the application of billingsgate rhetoric, to lavish it upon him. Rejected or not, that communication cannot be secreted from the eyes of the American people. It has been read, and will be printed. An independent press will carry it to the extremities of the country, and hand it down to succeeding generations. It will be compared with speeches delivered for three months in this Capitol, against this President, and an enlightened and upright community will decide between the language of the defence, and the language of the accusation; between the temper of the accusers, and the temper of the accused; between the violent President who has violated the constitution and the laws, and the meek and gentle Senators who have sat in judgment upon him for it. The people will see these things—will compare them together—will judge for themselves; and that judgment, in this free and happy land, will be the final and supreme award, from which there is no appeal.

The great question, Mr. B. said, which was to go before the American people, and to claim from them that intense and profound consideration which the English people gave to the conduct of the House of Commons in regard to the Middlesex election, is the constitutionality of the Senate's conduct in adopting a resolution which

condemned the President for a violation of the laws and of the constitution of his country. It was the conduct of the Senate which would now be on trial, and that conduct deserved to be tried, and as far as it depended upon him, should be tried, upon the facts of the case alone—upon the facts which our Journal contains—upon the resolutions as offered, and adopted, here—upon the authentic speeches which the supporters of these resolutions have published to the world, and which show the sense in which they understood the proceeding which they carried on. The proceeding he, Mr. B., held to be an impeachment, without the forms of an impeachment—a conviction, without the form of a trial—a sentence of condemnation for a high crime and misdemeanor against the Chief Magistrate of the republic, without evidence, without hearing, without defence, without the observance of a single form prescribed for the trial of impeachments; and this by the very tribunal which is bound to try the formal impeachment for the same matter, if duly demanded by the general inquest of the nation in their Hall of Representatives. This was the question which the country would have to try, and in the trial of which, furious passion, reckless denunciation, or even audacious assertion, will stand for nothing. The record! the record! will be the evidence which the country will demand. The facts! the facts! will be the data which they require. The speeches! the speeches! delivered on this floor, will be the test of the spirit and intention with which these proceedings were pursued and consummated, and without animadverting upon the manner in which the President's Message and protest had been received here, and which has presented such an extraordinary scene in the American Senate, he should proceed to lay before the people the authentic evidence, in the calmest manner, which it will be their business to weigh in the formation of their opinions on this momentous subject. The first evidence which he should submit, was the series of resolutions which were presented to the Senate, before one could be framed which could unite the votes of the 26 Senators who finally voted together in the adoption of one of them. He said he should present the series of these resolutions, for in the metamorphosis which they underwent, there was much for anxious reflection; the first one containing specifications, which were omitted in the second and third; while the second and third notoriously rested upon the specifications omitted, and which could not be retained on the face of the record!

Mr. B. then read the resolution at first offered by Mr. CLAY at the commencement of the debate. It was in the following words:

"Resolved, That by dismissing the late Secretary of the Treasury, because he would not, contrary to his sense of his own duty, remove the money of the United States in deposit with the Bank of the United States and its branches, in conformity with the President's opinion, and by appointing his suc-

cessor to effect such removal, which has been done, the President has assumed the exercise of a power over the Treasury of the United States not granted to him by the constitution and laws, and dangerous to the liberties of the people."

He then read the resolution as amended, or altered, by the same gentleman, and offered again to the Senate towards the close of the debate. It was as follows:

"Resolved, That in taking upon himself the responsibility of removing the deposits of the public money from the Bank of the United States, the President of the United States has assumed the exercise of a power over the Treasury of the United States not granted to him by the constitution and laws, and dangerous to the liberties of the people."

He then read the third edition, revised, amended, and altered, of the same resolution, as finally submitted to the Senate by the original mover, and adopted by the vote of the Senate:

"Resolved, That the President, in the late Executive proceedings in relation to the public revenue, has assumed upon himself authority and power not conferred by the constitution and laws, but in derogation of both."

Mr. B. then remarked upon the alteration which these resolutions had undergone, and begged it to be well remembered that none of these alterations were amendments made by the Senate, but were the voluntary and successive changes introduced by the mover himself. He remarked, first, upon the nature of these changes; secondly, upon the design which induced them; and thirdly, upon the effect of making them. The first change consisted in dropping the specification on which the general charge of violating the laws and the constitution rested, and retaining the formal impeachment conclusion, of dangerous to the liberties of the people. The second change consisted in the omission of the specification, and in the suppression of that regular impeaching clause dangerous to the liberties of the people! Now, said Mr. B., when were these alterations made? Certainly it was after the objection had been fully taken in the Senate that this resolution contained impeachable matter! It was after the original resolution had been denounced as a virtual impeachment of the President of the United States, and after the suppressed passages had been pointed out as proving and identifying the impeachment character of the resolution. It was after all this that the alterations were made. Having shown the time when the alterations were made, Mr. B. next showed the design with which they must have been made; and that evidently was to get rid of the criminal aspect of the proceedings, and to avoid a trial before the people on those specifications, on which, possibly, the 26 could not unite here, nor go to trial upon anywhere! He remarked, in the third place, upon the effect produced in the character of the resolution, and affirmed that it was nothing. He said that the same charge ran through all three. They

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all three imputed to the President a violation of the constitution and laws of the country—of that constitution which he was sworn to support, and of those laws which he was not only bound to observe himself, but to cause to be faithfully observed by all others. A violation of the constitution and of the laws, Mr. B. said, were not abstractions and metaphysical subtleties. They must relate to persons or things. The violations cannot rest in the air; they must affix themselves to men or to property; they must connect themselves with the transactions of real life. They cannot be ideal and contemplative. In omitting the specifications relative to the dismissal of one Secretary of the Treasury, and the appointment of another, what other specifications were adopted or substituted? Certainly none! What others were mentally intended? Surely none! What others were suggested? Certainly none! The general charge then rests upon the same specification; and so completely is this the fact, that no supporter of the resolutions has thought it necessary to make the least alteration in his speeches which supported the original resolution, or to say a single additional word in favor of the altered resolution as finally passed. The omission of the specification is then an omission of form and not of substance; it is a change of words and not of things; and the substitution of a derogation of the laws and constitution, for dangerous to the liberties of the people, is a still more flagrant instance of change of words without change of things. It is tautologous and nonsensical. It adds nothing to the general charge, and takes nothing from it. It neither explains it nor qualifies it. In the technical sense it is absurd; for it is not the case of a statute in derogation of the common law, to wit, repealing a part of it; in the common parlance understanding it is ridiculous, for the President is not even charged with defaming the constitution and the laws; and, if he was so charged, it would present a curious trial of *scandalum magnatum* for the American Senate to engage in. No! said Mr. B., this derogation clause is an expletion! It is put in to fill up! The regular impeaching clause of dangerous to the liberties of the people, had to be taken out. There was danger not to the people certainly, but to the character of the resolution, if it stayed in. It identified that resolution as an impeachment, and, therefore, constituted a piece of internal evidence which it was necessary to withdraw; but in withdrawing which, the character of the resolution was not altered. The charge for violating the laws and the constitution still stood; and the substituted clause was nothing but a stopper to a vacuum—additional sound without additional sense, to fill up a blank and round off a sentence.

After showing the impeaching character of the Senate's resolution, from its own internal evidence, Mr. B. had recourse to another description of evidence, scarcely inferior to the resolutions themselves, in the authentic inter-

pretations of their meaning. He alluded to the speeches made in support of them, and which had resounded in this chamber for three months, and were now circulating all over the country in every variety of newspaper and pamphlet form. These speeches were made by the friends of the resolution to procure its adoption here, and to justify its adoption before the country. Let the country then read, let the people read, what has been sent to them for the purpose of justifying these resolutions which they are now to try! They will find them to be in the character of prosecution pleadings against an accused man, on his trial for the commission of great crimes! Let them look over these speeches, and mark the passages; they will find language ransacked, history rummaged, to find words sufficiently strong, and examples sufficiently odious, to paint and exemplify the enormity of the crime of which the President was alleged to be guilty. After reading these passages, let any one doubt, if he can, as to the character of the resolution which was adopted. Let him doubt, if he can, of the impeachable nature of the offence which was charged upon the President. Let him doubt, if he can, that every Senator who voted for that resolution, voted the President to be guilty of an impeachable offence—an offence, for the trial of which this Senate is the appointed tribunal—an offence which it will be the immediate duty of the House of Representatives to bring before the Senate, in a formal impeachment, unless they disbelieve in the truth and justice of the resolution which has been adopted.

Mr. B. said there were three characters in which the Senate could act, and every time it acted it necessarily did so in one or the other of these characters. It possessed executive, legislative, and judicial characters. As a part of the executive, it acted on treaties and nominations to office; as a part of the legislative, it assisted in making laws; as a judicial tribunal, it decided impeachments. Now, in which of these characters did the Senate act when it adopted the resolution in question? Not in its executive character, it will be admitted; not in its legislative character, it will be proved; for the resolution was, in its nature, wholly foreign to legislation. It was directed, not to the formation of a law, but to the condemnation of the President. It was to condemn him for dismissing one Secretary, because he would not do a thing, and appointing another that he might do it; and certainly this was not matter for legislation; for Mr. Duane could not be restored by law, nor Mr. Taney put out by law. It was to convict the President of violating the constitution and the laws; and surely these infractions are not to be amended by laws, but avenged by trial and punishment. The very nature of the resolution proves it to be foreign to all legislation; its form proves the same thing; for it is not joint, to require the action of the House of Representatives, and thus ripen into law; nor is it followed by an instruction

to a committee to report a bill in conformity to it. No such instruction could even now be added without committing an absurdity of the most ridiculous character. There was another resolution, with which this must not be confounded, and upon which an instruction to a committee might have been bottomed; it was the resolution which declared the Secretary's reasons for removing the deposits to be insufficient and unsatisfactory, but no such instruction has been bottomed even upon that resolution; so that it is evident that no legislation of any kind was intended to follow either resolution, even that to which legislation might have been appropriate, much less that to which it would have been an absurdity. Four months have elapsed since the resolutions were brought in. In all that time there has been no attempt to found a legislative act upon either of them; and it is too late now to assume that the one which in its nature and in its form is wholly foreign to legislation, is a legislative act, and adopted by the Senate in its legislative character. No! This resolution is judicial; it is a judgment pronounced upon an imputed offence; it is the declared sense of a majority of the Senate, of the guilt of the President of a high crime and misdemeanor. It is, in substance, an impeachment—an impeachment in violation of all the forms prescribed by the constitution—in violation of the privileges of the House of Representatives—in subversion of the rights of the accused, and the record of which ought to be expunged from the Journal of the Senate.

Mr. B. said, the selection of a tribunal for the trial of impeachments was felt, by the convention which framed the constitution, as one of the most delicate and difficult tasks which they had to perform. Those great men were well read in history, both ancient and modern, and knew that the impeaching power—the usual mode for trying political men for political offences—was often an engine for the gratification of factious and ambitious feelings. An impeachment was well known to be the beaten road for running down a hated or successful political rival. After great deliberation—after weighing all the tribunals, even that of the Supreme Court—the Senate of the United States was fixed upon as the body which, from its constitution, would be the most impartial, neutral, and equitable, that could be selected, and with the check of a previous inquisition, and presentment of charges by the House of Representatives, would be the safest tribunal to which could be confided a power so great in itself, and so susceptible of being abused. The Senate was selected; and to show that he had not overstated the difficulties of the convention in making the selection, he would take leave to read a passage from a work which was canonical on this subject, and from an article in that work which was written by the gentleman whose authority would have most weight on this occasion. He spoke of the Federalist, and

of the article written by Gen. Hamilton on the impeaching power:

"A well-constituted court for the trial of impeachments is an object not more to be desired than difficult to be obtained, in a government wholly elective. The subjects of its jurisdiction are those offences which proceed from the misconduct of public men; or, in other words, from the abuse or violation of some public trust. They are of a nature which may, with peculiar propriety, be denominated political, as they relate chiefly to injuries done immediately to society itself. The prosecution of them for this reason, will seldom fail to agitate the passions of the whole community, and to divide it into parties more or less friendly or inimical to the accused. In many cases, it will connect itself with the pre-existing factions, and will enlist all their animosities, partialities, influence and interest, on one side or on the other; and, in such cases, there will always be the greatest danger that the decision will be regulated more by the comparative strength of parties, than by the real demonstration of innocence or guilt. The delicacy and magnitude of a trust which so deeply concerns the political reputation and existence of every man engaged in the administration of public affairs, speak for themselves. The difficulty of placing it rightly in a government resting entirely on the basis of periodical elections, will as readily be perceived, when it is considered that the most conspicuous characters in it will, from that circumstance, be too often the leaders or the tools of the most cunning or the most numerous faction; and, on this account, can hardly be expected to possess the requisite neutrality towards those whose conduct may be the subject of scrutiny.

"The division of the powers of impeachment between the two branches of the legislature, assigning to one the right of accusing, to the other, the right of trying, avoids the inconvenience of making the same persons both accusers and judges; and guards against the danger of persecution from the prevalence of a factious spirit in either of these branches."

Mr. B. said there was much matter for elucidation of the present object of discussion in the extract which he had read. Its definition of an impeachable offence covered the identical charge which was contained in the resolution adopted by the Senate against the President. The offence charged upon him possessed every feature of the impeachment defined by General Hamilton. It imputes misconduct to a public man, for the abuse and violation of a public trust. The discussion of the charge has agitated the passions of the whole community; it has divided the people into parties, some friendly, some inimical, to the accused; it has connected itself with pre-existing parties, enlisting the whole of the opposition parties under one banner, and calling forth all their animosities—all their partialities—all their influence—all their interest; and, what was not foreseen by General Hamilton, it has called forth the tremendous moneyed power, and the pervading organization of a great moneyed power, wielding a mass of forty millions of money, and sixty millions of debt; wielding the whole in aid and support

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of this charge upon the President, and working the double battery of seduction on one hand, and oppression on the other, to put down the man against whom it is directed! This is what General Hamilton did not foresee; but the next feature in the picture he did foresee, and most accurately describe, as it is now seen by us all. He said that the decision of these impeachments would often be regulated more by the comparative strength of parties than by the guilt or innocence of the accused. How prophetic! Look to the memorials, resolutions, and petitions, sent in here to criminate the President, so clearly marked by a party line, that when an exception occurs, it is made the special subject of public remark. Look at the vote in the Senate, upon the adoption of the resolution, also as clearly defined by a party line as any party question can ever be expected to be.

To guard the most conspicuous characters from being persecuted—Mr. B. said he was using the language of General Hamilton—to guard the most conspicuous characters from being persecuted by the leaders or the tools of the most cunning or the most numerous faction—the convention had placed the power of trying impeachments, not in the Supreme Court, not even in a body of select judges chosen for the occasion, but in Senate of the United States, and not even in them without an intervening check to the abuse of that power, by associating the House of Representatives, and forbidding the Senate to proceed against any officer until that grand inquest of the nation should demand his trial. How far fortunate, or otherwise, the convention may have been in the selection of its tribunal for the trial of impeachments, it was not for him, Mr. B., to say. It was not for him to say how far the requisite neutrality towards those whose conduct may be under scrutiny, may be found, or has been found, in this body. But he must take leave to say, that if a public man may be virtually impeached—actually condemned by the Senate of an impeachable offence, without the intervention of the House of Representatives, then has the constitution failed at one of its most vital points, and a ready means found for doing a thing which had filled other countries with persecution, faction, and violence, and which it was intended should never be done here.

Mr. B. called upon the Senate to recollect what was the feature in the famous court of the Star Chamber, which rendered that court the most odious that ever sat in England. It was not the mass of its enormities—great as they were—for the regular tribunals which yet existed, exceeded that court, both in the mass and in the atrocity of their crimes and oppressions. The regular courts in the compass of a single reign—that of James the Second; a single judge, in a single riding—Jeffries, on the Western Circuit—surpassed all the enormities of the Star Chamber, in the whole course of its existence. What then rendered that court so intolerably

odious to the English people? Sir, said Mr. B., it was because that court had no grand jury—because it proceeded without presentment, without indictment—upon information alone—and thus got at its victims without the intervention, without the restraint, of an accusing body. This is the feature which sunk the Star Chamber in England. It is the feature which no criminal tribunal in this America is allowed to possess. The most inconsiderable offender, in any State of the Union, must be charged by a grand jury before he can be tried by the court. In this Senate, sitting as a high court of impeachment, a charge must first be presented by the House of Representatives, sitting as the grand inquest of the nation. But if the Senate can proceed, without the intervention of this grand inquest, wherein is it to differ from the Star Chamber, except in the mere execution of its decrees? And what other execution is now required for delinquent public men, than the force of public opinion? No! said Mr. B., we live in an age when public opinion, over public men is omnipotent and irreversible!—when public sentiment annihilates a public man more effectually than the scaffold. To this new and omnipotent tribunal, all the public men of Europe and America are now happily subject. The fiat of public opinion has superseded the axe of the executioner. Struck by that opinion, kings and emperors in Europe, and the highest functionaries among ourselves, fall powerless from the political stage, and wander, while their bodies live, as shadows and phantoms over the land. Should he give examples? It might be invidious; yet all would recollect an eminent example of a citizen, once sitting at the head of this Senate, afterwards falling under a judicial prosecution, from which he escaped untouched by the sword of the law, yet that eminent citizen was more utterly annihilated by public opinion, than any execution of a capital sentence could ever have accomplished upon his name. What occasion then has the Senate, sitting as a court of impeachment, for the power of execution? The only effect of a regular impeachment now, is to remove from office, and disqualification for office. An irregular impeachment will be tantamount, to removal and disqualification, if the justice of the sentence is confided in by the people. If this condemnation of the President had been pronounced in the first term of his administration, and the people had believed in the truth and justice of the sentence, certainly President Jackson would not have been elected a second time; and every object that a political rival, or a political party, could have wished from his removal from office, and disqualification for office, would have been accomplished. Disqualification for office—loss of public favor—political death—is now the object of political rivalry; and all this can be accomplished by an informal, as well as by a formal impeachment, if the sentence is only confided in by the people. If the people believed that the President has violated the constitution and the laws, he

ceases to be the object of their respect and their confidence; he loses their favor; he dies a political death; and that this might be the object of the resolution, Mr. B. would leave to the determination of those who should read the speeches which were delivered in support of the measure, and which would constitute a public and lasting monument of the temper in which the resolution was presented, and the object intended to be accomplished by it.

It was in vain to say there could be no object, at this time, in annihilating the political influence of President Jackson, and killing him off as a public man, with a Senatorial conviction for violating the laws and constitution of the country. Such an assertion, if ventured upon by any one, would stand contradicted by facts, of which Europe and America are witnesses. Does he not stand between the country and the bank? Is he not proclaimed the sole obstacle to the recharter of the bank; and in its recharter is there not wrapped up the destinies of a political party, now panting for power? Remove this sole obstacle—annihilate its influence—kill off President Jackson with a sentence of condemnation for a high crime and misdemeanor, and the charter of the bank will be renewed, and in its renewal, a political party, now thundering at the gates of the Capitol, will leap into power. Here then is an object for desiring the extinction of the political influence of President Jackson! An object large enough to be seen by all America! and attractive enough to enlist the combined interest of a great moneyed power, and of a great political party.

FRIDAY, April 18.

Distress Memorial.

Mr. KENT presented a memorial from Prince George's county, in the State of Maryland, complaining of the removal of the public deposits, and the manner in which they had been removed through the agency of the President, and praying for their restoration and the recharter of the Bank of the United States.

[On presenting the above memorial, Mr. Kent addressed the Senate at great length in amplification and justification of its contents.]

President's Protest.

The Senate resumed the consideration of the unfinished business of yesterday, being the motion not to receive the Message of the President of the United States on the subject of the resolution of the Senate of the 28th ult.; when

Mr. LEBLANC said, that whatever surprise the paper sent hither by the President, and read yesterday, might have produced out of doors, he presumed there was no Member of the Senate to whom it came unexpected. Every man here must have been aware, for some time past, of the actual commencement of hostilities by

that potentate against this body, and prepared, of course, for the public declaration of war that was soon to follow. The language of this manifesto had been described, by the friends of the administration, as temperate and moderate; and it was temperate enough, in the sense in which that epithet might be applied to all denunciations of war by civilized powers, in modern times—as temperate as is compatible with the nature and purpose of such denunciations. There was nothing in the mere language of this extraordinary paper that was offensive to him—it was the act itself that roused his indignation. He felt that sentiment very strongly; never, on any occasion, more strongly; and if he were to indulge the expression of his feelings, he should not, like the gentleman from Maine, (Mr. SPRAGUE,) speak more in grief than in anger, much less would his language be in unison with that cheerful mood in which the gentleman from Alabama (Mr. KING) had spoken on the subject, for he felt as if he were even now treading among the ruins of the constitution. He should, however, endeavor to suppress all emotions of passion. His purpose was to examine this act of the President, the motive that obviously dictated it, its manifest design and object, and the mischief which it but too certainly portended.

What, then, said he, is the true character of the act? It is apparent in every line of this paper, neither, in truth, is there any dispute about it; for the gentleman from Missouri, who had certainly been previously apprised of its contents, since he came prepared with extracts from the *Federalist*, to sustain some of the positions assumed by the President—extracts, of which, without the spirit of divination, he could not have seen the application to the purpose, unless he had a previous accurate knowledge—the gentleman from Missouri tells us that this is a solemn appeal to the American people, by the President, against the Senate; an appeal, he must allow, such as has never before been attempted, or thought of. And I add, and shall prove, that this is a quarrel causelessly sought by the President with the Senate, to be submitted to the decision of the people, in which he hopes for victory, and, if he succeeds, is prepared to avail himself of all the advantages of victory to the uttermost.

The President proposes a trial of the weight of his personal popularity and of the Executive influence, against the constitutional powers and rights of the Senate, and the privilege of this branch of the legislature to exercise its own judgment concerning its own rights and duties. He undertakes to prescribe to us the limits of our legislative functions. If he fail in this trial of his strength, the only consequence will be some mortification of his pride, and a grievous disappointment of the gratification of those fierce and burning resentments which but too plainly influence all his actions. The constitution will remain unaltered and unimpaired. But if the people shall sustain him in this ap-

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peal, the constitution of the Senate will be directly attacked. He has indicated his own personal motives, and the political objects he is seeking to accomplish in respect to the Senate, in this very paper, and that in language too plain to be misunderstood by any man who will not shut his mind to every thing but plain, unequivocal avowal. He says: "If the censures of the Senate be submitted to by the President, the confidence of the people in his ability and virtue, and the character and usefulness of his administration, will soon be at an end, and the real power of the Government will fall into the hands of a body, holding their offices for long terms, not elected by the people, and not to them directly responsible. If, on the other hand, the illegal censures of the Senate should be resisted by the President, collisions and angry controversies might ensue, discreditable in their progress, and in the end compelling the people to adopt the conclusion, either that their Chief Magistrate was unworthy of their respect, or that the Senate was chargeable with calumny and injustice. Either of these results would impair public confidence in the perfection of the system, and lead to serious alterations of its frame work, or to the practical abandonment of some of its provisions." And in another part, he says: "But if the Senate have a right to interfere with the executive powers, they have also the right to make that interference effective; and if the assertion of the power implied in the resolution be silently acquiesced in, we may reasonably apprehend that it will be followed, at some future day, by an attempt at actual enforcement. The Senate may refuse, except on the condition that he will surrender his opinions to theirs, and obey their will, to perform their own constitutional functions, to pass the necessary laws, to sanction appropriations proposed by the House of Representatives, and to confirm proper nominations by the President." Who does not see, in these expressions, the manifestation of those personal motives, which have impelled the President to hostilities against the Senate; that "the confidence of the people in his ability and virtue, and the character and usefulness of his administration," is the object that constitutes the personal motive of his conduct? Who does not see that the refusal of the Senate "to sanction appropriations proposed by the House of Representatives, and to confirm proper nominations by the President," are to be regarded by him, and to be held up to the people, as "an attempt," on our part, "at actual enforcement" of our right "to interfere with the executive powers?" Who does not also see in those allusions to the constitution of this body, "holding their offices for long terms, not elected by the people, and not to them directly responsible," the corrective which the President is aiming at? No one can suppose that "the serious alterations of the frame work, or the practical abandonment of some of the provisions" of the constitution, which he expects will grow out of these collisions between

the Executive and the Senate, will be of a nature to reduce the patronage, power, and influence of the former. The House of Representatives (it must in decency be presumed) will make no appropriations, which it does not think wise and just, nor the President any nominations, which he does not think proper; but the Senate, in its legislative capacity, has an express power by the constitution, to agree to the appropriations proposed by the other House, or to dissent from them, according to its judgment; and, in the exercise of its executive functions, to give or withhold its assent to the nominations of the President, according to its sense of the merits or demerits of the nominees; and yet this exercise of our undoubted powers is to be held up to the people as a manifestation of the design of the Senate to concentrate "the real power of the Government into its own hands!" The disagreement of the Senate to appropriations proposed by the other House, is a very common case; and its disapprobation of some of the nominations already made by the President, or expected from him, may very certainly be anticipated. Such proofs of our lust of domination, he has reason enough to expect will soon be publicly exhibited to the world. And if the people shall sustain the President in this his appeal against the Senate, it requires no political sagacity to foresee, and I venture to predict, that he will then aim at absolute conquest over this devoted body; he will then insist that its share of the appointing power shall be taken away, that the Senatorial term of service shall be shortened; that the Senators shall be made subject to recall during their term, and, perhaps, that the election of them shall be transferred from the State legislatures to the people; and he will exert the whole influence of his personal popularity and executive patronage, (the latter of which is vast beyond calculation, almost beyond imagination,) to accomplish these "serious alterations in the frame work" of the constitution. It is not my purpose, at present, to inquire whether such alterations would be wise or not. I only say they would amount to a revolution in the Government. The adoption of them will abolish the only check which the wisdom of our fathers found it practicable to devise, to guard against the predominance of the National features of our institutions over the Federal, and of the executive over the other departments of this Government.

Sir, these designs against the Senate are only not avowed. I as confidently believe them to exist, as if they were ever so distinctly avowed. I shall never wait till politicians or generals think proper to promulgate their plans of operations. The love of contest, and the passion for conquest, have marked the conduct of General Jackson throughout his life. He has conquered every individual that stood in his way; he has conquered the bank; he is now aiming at conquest over the Senate; and if he shall achieve that, he may then turn his arms with

success against the whole constitution. I do not say, because I do not suspect, that he is now looking to this ulterior conquest, but that, at present, he is aiming at conquest over the Senate; and if the people shall sustain him in this appeal against us, he will have it in his power to achieve this conquest over us, to the utmost extent of his wishes. I have not the least confidence in his moderation or clemency after victory.

An appeal of the President to the American people against the Senate, with a view to accomplish, or even to suggest a change, formal or informal, in the constitution of the latter, through the direct intervention of the people, is, in its very nature, of a revolutionary tendency. In representative republics like ours, when once the Government is established, the people always act through their agents—their constituted authorities; they never resume the original powers inherent in them, but for the purpose of altering or abolishing their ancient forms, and establishing new; and whenever one department of the Government appeals directly to the people against another, and invokes their interposition, it expects the people no longer to act through their constituted authorities, but to act against them—to supersede, to abolish, or at least to alter them. The House of Representatives and the Senate are co-ordinate branches of the Federal legislature. The Executive is not exactly a co-ordinate department of the Government. Until the President developed the faculties of the Executive power, all men thought it inferior to the legislative—he manifestly thinks it superior, and in his hands the monarchical part of the Government (for the Executive is monarchical, though it be elective for a term of years, by which it was hoped—I now fear, vainly hoped—to obviate mischief from its power) has proved far stronger than the representatives of the people, stronger than the representatives of the States, stronger than both combined; and if success shall still attend his inordinate pretensions, he will soon tame them to absolute submission. He has proclaimed to the world, that neither “the voice of the legislature, nor the will of the people,” shall induce him to change his course of measures. He has no respect for the opinion of the people, when that opinion is against him; he only appeals to the people when he wants their aid to subdue the Senate. The republic is in danger.

I have said that the President has raised this quarrel with the Senate without cause or provocation. His pretext for it is one of the resolutions of this House on the subject of the deposits, which is in these words: “*Resolved*, That the President of the United States, in the late Executive proceedings in relation to the public revenue, has assumed upon himself authority and power not conferred by the constitution and laws, but in derogation of both.” The language of the resolution was carefully selected, in order to avoid the imputation of crime; it is not affirmed that he has usurped unconstitu-

tional and illegal power, for that phrase would have imported design and wilfulness; it is not said that he has wilfully assumed, but, only, that he has assumed, namely, taken upon himself, such power; it is not said that he has done this in violation, in defiance, or in contempt of the constitution and laws, but in derogation from them—that is, that his measures tended to impair them, or to prevent or weaken their operation. There is not a word in the resolution that implies a criminal intent, nor was it intended to impute one. But the President reads this resolution as if it charged him with having criminally usurped power, in wilful violation of the constitution and laws. Behold how he justifies the interpretation of it! He says, “That the language of the resolution does not expressly allege that the assumption of power and authority which it condemns was intentional and corrupt, is no answer to the preceding view of its character and effect. The act thus condemned, necessarily implies volition and design in the individual to whom it is imputed, and, being unlawful in its character, the legal conclusion is, that it was prompted by improper motives, and committed with an unlawful intent. The charge is not of a mistake in the exercise of supposed powers, but of the assumption of powers not conferred by the constitution and laws, but in derogation of both; and nothing is suggested to excuse or palliate the turpitude of the act. In the absence of any such excuse or palliation, there is only room for one inference, and that is, that the intent was unlawful and corrupt. Besides, the resolution not only contains no mitigating suggestion, but on the contrary it holds up the act complained of, as justly obnoxious to censure and reprobation, and thus as distinctly stamps it with impurity of motive, as if the strongest epithets had been used.” Now, I have always understood, and I should have supposed that the President, who has been a judge, would have known, that the allegation of a criminal intent is of the essence of every criminal accusation; and I apprehend that it never before was imagined that the omission to allege criminal intent was supplied by an omission of any circumstances of excuse or justification that might lead to acquittal. Neither is there but one supposition on which the reasoning of the President can hold good; and that is, that he is so profoundly versed in the constitution and laws, and so well known to the whole world, and especially to the Senate, to be an infallible judge of them, that it is impossible for any one to impute a departure from them by him, to mistake or error of judgment; and, therefore, the Senate must have intended to charge his aberrations to a wilful criminal design to violate the constitution and the laws, which it is his duty to observe and maintain. Surely, sir, this man is possessed with a degree of presumption that never mortal man beside was cursed withal! a presumption which, whether it proceeds from native vanity, or the favors of fortune, or the poison of

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flattery, must be to himself a copious source of error as well as of bitterness and of evil to his country. The Supreme Court of the United States has been often charged with giving judgments contrary to the constitution; the President himself has made such charges against that court. Congress has been, over and over again, charged with passing laws not warranted by the constitution; and the President has repeatedly alleged this against the legislature. Congress has been charged with passing, and the President with approving, unconstitutional acts; and, if I am rightfully informed, the President has alleged this in respect of acts, or parts of acts, which he himself has approved. In debate here, gentlemen are daily contending that the opinions and votes of each other are contrary to the constitution. Who ever thought that such allegations implied a charge of crime—of a wilful violation of the constitution? It is only, when such an allegation is brought by the Senate against the President—by this Senate against this President—that the Senate must necessarily intend to arraign him, without any impeachment from the other House, and to try and convict him without a hearing. And this is the daring violation of the constitution for which the President appeals to the American people against the Senate!

THURSDAY, April 24.

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The Senate proceeded to the consideration of the special order, being the resolutions offered by Mr. POINDEXTER, as modified by Mr. CLAY.

The question being on the amendment proposed by Mr. BIBB—

Mr. KANE said: Mr. President, I am amongst those who believe that this session has been already sufficiently extended; and that the time for action upon the necessary business of the country has arrived. My sentiments upon the present subject will be therefore delivered as briefly as possible. The proposition first made, in haste and without due consideration, not to receive the communication of the President, has, in some measure, given way to more sagacious counsels; more sagacious, because formed upon more reflection. Gentlemen in the opposition have trodden back their steps, and have consented to present their reasons upon record, in the shape of the resolutions now before you. It will not surprise me if our further progress should lead to further recessions. I take no pleasure in retorting upon Senators who have charged retraction of opinions upon the President, because of his supplemental explanations, the fact that their propositions have been thrice altered, and that down to this moment they have not agreed upon the course to be pursued.

Notwithstanding, Mr. President, the matters of grave import contained in the several resolutions submitted by the Senator from Mississippi, the first question presented for decision will be upon the amendment offered by the honorable

Senator from Kentucky, (Mr. BIBB.) That question is, Shall the paper be rejected?

Before we give an affirmative answer, it would be well to consider that the President of the United States represents an authority, under the constitution, conferred upon him by twelve millions of people—that they have lodged in his hands the Executive power of this Government—that it is the duty of the incumbent to guard that power from violation, that it may neither be diminished nor carried too far—that it is as much his right and his duty to guard that power, as it is the right and duty of any other department of the Government to guard its rights and powers from violation. When questions of difference with regard to power arise between the co-ordinate branches, of a nature not judicial, there is but one tribunal to appeal to, and that tribunal is the people—the fountain and parent of all the powers of the Government. It is the duty of the conflicting parties to present the matter of difference fairly, in a spirit of candor, that the points may be clearly presented, and fully understood. Remember that our duty requires us to conceal nothing from the great arbiter; that we have no right to treat him with contempt.

The reasons, then, for rejecting this paper, or refusing to receive it, must be overwhelming, to justify us in taking the course proposed, lest we subject ourselves to the charge of treating twelve millions of people, in the person of their President, contemptuously, and their undoubted power with scorn.

Will the Senate act courteously, or consult its self-respect, to read this protest, dissect it, condemn it, answer it by speeches, and then solemnly vote not to receive it? Would it be honorable in private life for a gentleman to receive a communication from an individual, open it, read it, answer it, abuse it, and condemn it by oral declarations, and then refuse to receive it? Let me now ask for the reasons which will govern the votes of those who will not consent to receive this paper.

Is its language disrespectful, is it indecent, is it insulting in its terms or its import? None of these things are pretended. Had the President no right to send it? If it be his duty to defend the powers of the Executive Department of the Government, his right is unquestionable. If he believed that the resolution of the Senate, in violation of the constitution, invaded the "Executive power," there was no course left him to pursue, than to protest against it.

He could not counteract the resolutions in any other way. If he submitted in silence, he would have acquiesced in what he believed an unauthorized interference with the rights of a branch of the Government confided to him by the constitution, and he would have been justly condemned by the people for his acquiescence. He would have surrendered the Executive office to a successor, impaired, so far as his silence against his duty could accomplish such an end. He had precedent for his course in the recorded

proceedings of the Senate. How often have the State Legislatures sent protests here against the acts of the Congress of the United States, containing positive charges of violations of the Federal constitution on the part of Congress? Who ever made a motion not to receive a protest of this kind? And pray, sir, will gentlemen tell me why a co-ordinate branch of this Government cannot protest against a resolution of this body, and why, at the same time, he will allow a State Legislature to send a protest against the deliberate Legislative determinations of Congress.

Whatever objections have been made to the right of the President to send the paper, no one has denied the right of the Senate to receive it, and spread it upon the Journal; for however much we complain of the want of power in others, we seldom deny to ourselves the authority to do any thing. I place the right of the Senate to comply with the President's request to cause the protest to be spread upon the Journals, upon its unquestioned and unquestionable power over its own Journal. The President has no right to interfere with the Journal in any way, and therefore he appeals, in the form of a request, to your justice, to cause the protest to be placed side by side with your resolution.

It has been urged that the doctrines of the protest are unsound, its objects and designs impure, and that it is a declaration of war against the Senate. If this be all true, it would seem to be good policy in us to make these unsound doctrines and impurities of object and design as conspicuous and as durable as possible, that the world may know, and that posterity may justify the defensive operations of the Senate.

Suppose, however, sir, that the judgment of the country, as to these doctrines, objects, and designs, should be different; that the people should believe them sound and irreproachable, in what condition, then, will the Senate be placed? Will not the world suppose the reasons of our refusal to receive and record this document to be, that we could not controvert the principles, answer the arguments, and prove the charges, of impurity of motive and design? Depend upon it, sir, that the people of this country will not be pleased with efforts to degrade the President, unless such efforts have for their solid foundation, truth, justice, reason, necessity, and patriotism.

One gentleman has declared the paper in question to be a declaration of war against the Senate. Mild in its terms, to be sure, as all declarations of war between modern powers are required to be, by the courtesy of nations. Yet it is a declaration of war. I am totally at a loss to account for this opinion, unless, indeed, we take into view the statement so repeatedly made here, that the President had made war upon the bank. If that be true, if gentlemen have entered into the war as its allies, surely it is inglorious in them to com-

plain that the auxiliary is treated in the same manner as the principal. If they have made it a common cause, they must abide together the common fortunes of the contest.

Let us, however, examine the facts in relation to this charge, though I shall be compelled to repeat some things often repeated. I shall do it in so brief a manner as not to be fatiguing. The sixteenth section of the bank law, confers, in terms, upon the Secretary of the Treasury, the right to remove the public moneys from the Bank of the United States, requiring him to give his reasons therefor to Congress. The terms of the law conferring this power are as general as the English language could make it; and the power given is without limitation as to time or condition. Yet the Senate, being one branch only of the Legislature, have, in effect, interpolated this section of the bank law with an entire sentence, so as to limit the exercise of this power of removal to two conditions, namely, when the deposits are unsafe, or when the bank fails to comply with the positive requirements of the charter, in transferring the public moneys whenever and wherever it may be required by the Government. I will not detain you by repeating the unanswered reasons repeatedly given, to show that it is impossible Congress could ever have consented to part with the public funds upon such grounds. If Congress intended to confine the action of the Secretary to these two contingencies, would it not have done so? That body was composed of men who could read and write and express their will. Yet we find a general power given, instead of this limited, restrained power.

The fixing this limitation by the Senate required a virtual interpolation, by one branch of Congress, of a regularly-established law of the land. Here, then, was truly an act of usurpation. One House of Congress, by resolution, amending a law of the United States.

Having thus made a law to suit themselves, gentlemen declare that the President has violated it, and the constitution also, because of the part he has taken to accomplish the removal of the public funds. Now, sir, it is easy to make out a charge of usurpation upon another, if you first usurp authority sufficient to lay the foundation of the charge. It is literally a charge of usurpation founded upon usurpation. Having in this manner laid the requisite foundation, the Senate passed the resolution against which the President thinks it his right and duty to protest, and defend himself. That resolution declares that the President, in the late Executive proceedings in relation to the public revenue, had assumed upon himself authority and power not conferred by the constitution and laws, but in derogation of both; and it is because he has sent us a defence against this declaration, in the mildest and most respectful terms, that he is charged now with making war upon this body. That the principles and arguments upon which his defence rests, are at war with the grounds assumed in

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support of the resolution, there can be no doubt. In this sense, and in this sense alone, does a war exist, and the declaration of it came unquestionably from the Senate. The Senate first charge him with a violation of the constitution, and all he has done has been to send us his vindication. He has not only been accused and found guilty by this body of violating the constitution and laws, without an opportunity of defence, but the resolution itself implies design and criminal intentions. The fact of violation is averred in terms without qualification; and what is the legal inference to be drawn from the finding of the fact, the naked fact, without extenuation? Was it intended to say that he did so innocently and ignorantly? If so, you draw a distinction, unknown to our constitution and laws, between the highest officer in the Government, who is supposed to be well acquainted with the laws of the land, and the lowest of our citizens. The rule universally applied to crime is, that ignorance does not excuse it. If this were not so, few crimes would be punished. The Senator from Virginia (Mr. Leno) was understood to say that indictments for crimes always charged a criminal intent; and from thence the inference was drawn, that the resolution in question was not a charge of designed violation. Is this resolution of the nature of an indictment? The Senate has no power to originate prosecutions of any kind. It is the jury which finds the fact, and the court which pronounces judgment. When a crime is proved to have been committed, the inference is necessarily drawn that the intent was criminal, and the accused is thrown upon the necessity of proving facts inconsistent with the inference. If the speeches made by legislators in favor of the passage of laws, or of the adoption of resolutions, may be referred to as evidence of their meaning, I need not remind the Senate that a most prolific source of proof is before us, to show that the violation charged was meant to be a wilful, arbitrary, tyrannical one.

But, sir, will any man, after examining precedents, say, that, had the House of Representatives sent us an impeachment against the President in the very words of this resolution, so far as the point before us is involved, that the Senate would have refused to arraign, try, and condemn the accused, for the want either of jurisdiction or of an expressed charge of criminal intent? No, sir, the language which all Senators would use, would be, that the intent was implied, and that the accused must clear himself from its effects by proof. I shall have occasion hereafter to advert to a precedent to show what has been in this respect pursued in impeachments. After this view of this part of the subject, it will be perceived, that, if the Senate has not convicted the President of a criminal violation of his duty, with pursuing the regular constitutional course, the members voting for the resolution have, at least, forever disqualified themselves from being his triers

upon a regular prosecution for this alleged violation of duty, by forming and expressing an opinion of his guilt. And whether the one or the other of these things has been done, the constitution has been equally and flagrantly violated.

Gentlemen object to receiving his protest, because they say it is an appeal to the people. If by this is meant that the President is desirous to submit, in a spirit of candor and decency, to the people of the United States, whose servant he is, an account of his stewardship in this matter of the bank, and to justify himself before those who have a right to call him to an account for his conduct in relation to it, the charge is true. He is neither afraid nor ashamed to acknowledge that all his powers are derived from the people, and that he is accountable to them. If he has consulted their substantial and durable prosperity, by interposing his character, and the constitution of his country, soundly construed, between the power of gold and the pending destruction of the liberties of his constituents, it is his duty to maintain himself, by the exhibition of the truths and reasons by which he has been governed. It will be for the people to decide now, and after he shall have left his station, upon the wisdom of his actions, and the virtue of his motives.

Whatever politicians may say, Washington, the Father of his country, was not ashamed to appeal to the people for their judgment upon his official conduct. I state upon the authority of Mr. Jefferson, contained in the fourth volume of his works, that, in 1793, when the country was convulsed upon the subject of Mr. Genet's conduct, who was the minister of France near the Government of the United States, when party violence ran high, and when his cabinet were divided as to the proper course to be pursued with regard to him, and other questions of a political nature, in a discussion which took place in his cabinet, Washington "manifestly inclined to the appeal to the people." His own character and motives had been impeached, and, during the same discussion, the Father of his country complained of "the personal abuse which had been bestowed upon him," and he "defied any man on earth, to produce one single act of his, since he had been in the Government, which was not done on the purest motives; that he had never repented but once, the having slipped the moment of resigning his office, and that was every moment since;" that "he had rather be in his grave than in his present situation; that he had rather be on his farm than be made emperor of the world;" "and yet, that they were charging him with wanting to be a king." What a striking parallel is here observed between the personal abuse heaped upon President Washington and General Jackson. Yet they both agree upon the propriety of appealing to the people, as the just and appropriate judges of their conduct and motives.

The President says in his protest, with regard to the condemnatory resolution, "It asserts no legislative power; proposes no legislative action." To my infinite surprise, one or two Senators have declared that legislative action was intended. The discussion upon the resolution was carried on here for about four months. It was repeatedly asserted, by friends of the administration, as an argument against the continuance of the discussion, and the adoption of the resolution, that it proposed no legislative action: this was never denied; nor did any one Senator, within my hearing, intimate, during the whole period, that any legislation was to grow out of its adoption. This resolution was referred to the Committee on Finance, an appropriate committee to report the plan of action. Yet the committee reported no legislative proposition; in truth, sir, they disregarded this resolution altogether, and did not report upon it at all. Already have five months of the session elapsed, and not a word about the legislative action has been heard, except the mere assertion referred to, in contradiction to the President's allegation. Sluggish legislators indeed! One prediction I will venture upon, that if the Senate continues its session five months longer, we shall not see a legislative proposition brought forward in this body, to carry into effect any object whatever connected with this resolution. And for the most decisive of all reasons, viz., in its very nature it cannot be the subject of legislation. If it can, I should be glad to be informed how. The protest, therefore, is no interference with any business pending before the Senate.

Another objection is made to receiving this paper, for the reason that it contains the proceedings and resolutions of the Legislatures of three of the States of this Union, approving, in the most unequivocal terms, the course of the Executive, which has been here the subject of condemnation. It also states the fact, truly, that four Senators from these States voted for the resolution, and that had their votes been cast against it, it would not have been adopted. But the President, in thus referring to these resolutions and instructions, expressly disclaims and repudiates all authority or design to interfere with the responsibility due from members of the Senate to their own consciences, their constituents, and their country. Yet gentlemen charge him, notwithstanding this emphatic disclaimer, with the very design he repudiates. Where a pure and justifiable motive can be assigned for any particular transaction, it is the part and course of innocence and justice to assign it, rather than a corrupt one.

This is more especially necessary to avoid the suspicion that we reason from our own infirmities to those of others. Is it at all strange that the Executive, attacked in all the various ways which an ingenious and talented opposition could devise, and who had been condemned, too, by a vote of a co-ordinate branch of the Government, should, in the progress of

a defence against his accusers and their accusations, avail himself of all the respectable authorities within his reach, to sustain the soundness of his principles and the correctness of his conduct? And what authority, in this country, is more to be relied on, in the construction of the constitution, than that of the States of the Union, who alone have the power to alter and amend it? The President says that the facts belongs to the history of the proceedings, and are important to the just development of the principles and interests involved in them, as well as to the proper vindication of the Executive department. No other motive could have existed than the one stated. All the facts were known to the world; had been avowed by the Senators concerned, on this floor, and they justified their continued disobedience to the instructions of their several Legislatures. The object of the President was, to present to the country his defence in a connected form, and in a mode, too, which would perpetuate it through all time to come.

The resolutions now before us, charge upon the President another violation of the constitution, in sending to us his defence and protest, for which he is now upon trial again, without any opportunity of defending himself, and he is about to be tried and condemned for presenting a paper which we may, and probably shall, refuse to receive. So inexpressibly sublimated is the dignity of this august body, that we may well expect a proposition to condemn the Executive for violations of the constitution, whenever he shall look at the Capitol. But of all the extraordinary pretensions which any branch of any free Government ever set up, is the one contained in one of the resolutions declaring that the President had violated the privileges of the Senate, for daring to question the infallibility of their opinions and decisions. Gentlemen, too, with a wisdom and research which marks the course of the opposition to the present administration, refer us to the British history of parliamentary proceedings to show that the King cannot interfere with pending subjects of legislation before the House of Lords!

Yet, we have not been shown a case where the Lords have considered their privileges violated by the King's sending his defence and protest to them upon a matter determined, and no longer pending in a legislative shape, as was the case with the resolution against which our republican President protests.

Let us examine, however, the British doctrine of parliamentary privilege. The only definition of privilege which I have ever met with, is that given by Sir John Fortesque, described by Blackstone, as follows:

"The privileges of Parliament are likewise very large and indefinite. And, therefore, when, in 31 Henry Sixth, the House of Lords propounded a question to the Judges concerning them, the Chief Justice, Sir John Fortesque, in the name of his brethren, declared that they ought not to make answer to that question; for it hath not been used

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aforetime, that the justices should in any wise determine the privileges of the high court of Parliament. For it is so high and mighty in its nature, that it may make law; and that which is law, it may make no law; and the determination and knowledge of that privilege belongs to the Lords of Parliament, and not to the justices."

To exemplify this doctrine, I have looked into the practice of the British Parliament upon this their theory, and now beg leave to read to the Senate a case from an old standard English work, called "*Lex Parliamentaria*."

"Johnson, a servant to Sir James Whitlock, a member of the Commons House, was arrested upon an execution by Moore and Lock, who, being told that Sir James Whitlock was a Parliament man, Fulk, one of the prosecutors, said he had known greater men's men than Sir James Whitlock's taken from their master's heels in Parliament times. This appearing, Lock and Moore were called into the bar, and by the judgment of the House were sentenced, first, that at the bar they should ask forgiveness of the House and of Sir James Whitlock, on their knees; secondly, that they should both ride upon one horse, bare-backed, back to back, from Westminster to the Exchange, with papers on their breasts, and this inscription: For arresting a servant of a member of the Commons House of Parliament; and this to be done *sedenti curia*. Which sentence was pronounced by Mr. Speaker against them at the bar, upon their knees."

Thus we see, Mr President, something of the character of the privileges of an English Parliament, and it is by the aid of such authority that we are now called upon to decide that the President of the United States has committed a breach of the privileges of the Senate, in virtue of our power derived from our English prototype, to make that which is law no law, and vice versa. Can we appeal to nothing more rational? Have not the framers of our constitution given us all the security which reason and liberty require? The constitution has secured to each House of Congress, in express terms—

1st. The privilege of freedom from arrest of the persons of members.

2d. Exemption from question elsewhere for what is said in the House.

3d. Power over their own members and proceedings.

As illustrative of this view of our privileges, suffer me to read an extract from Jefferson's Manual:

"The editor of the Aurora having, in his paper of February 19th, 1800, inserted some paragraphs defamatory of the Senate, and failed in his appearance, he was ordered to be committed. In debating the legality of this order, it was insisted, in support of it, that every man, by the law of nature, and every body of men, possesses the right of self-defence; that all public functionaries are essentially invested with the powers of self-preservation; that they have an inherent right to do all acts necessary to keep themselves in a condition to discharge the trusts confided to them; that, whenever authorities are given, the means of carrying them into execution

are given by necessary implication; that thus we see the British Parliament exercise the right of punishing contempts; all the State Legislatures exercise the same power; and every court does the same; that if we have it not, we sit at the mercy of every intruder who may enter our doors or gallery, and by noise and tumult, render proceeding in business impracticable; that, if our tranquillity is to be perpetually disturbed by newspaper defamation, it will not be possible to exercise our functions with the requisite coolness and deliberation; and that we must, therefore, have a power to punish these disturbers of our peace and proceedings.

"To this it was answered that the Parliament and courts of England have cognizance of contempts by the express provisions of their law; that the State Legislatures have equal authority, because their powers are plenary; they represent their constituents completely, and possess all their powers, except such as their constituents have expressly denied them; that the courts of the several States have the same powers by the laws of their States, and those of the Federal Government by the same State laws adopted in each State, by a law of Congress; that none of these bodies, therefore, derive those powers from natural or necessary right, but from express law; that Congress have no such natural or necessary power, or any powers but such as are given them by the constitution; that that has given them, directly, exemption from personal arrest, exemption from question elsewhere for what is said in their House, and power over their own members and proceedings; for these no further law is necessary—the constitution being the law; that, moreover, by the article of the constitution which authorizes them 'to make all laws necessary and proper for carrying into execution the powers vested by the constitution in them,' they may provide by law for an undisturbed exercise of their functions—e. g. for the punishment of contempts, or affrays or tumult in their presence, &c.,—but, till the law be made, it does not exist, and does not exist from their own neglect; that in the mean time, however, they are not unprotected, the ordinary magistrates and courts of law being open and competent to punish all unjustifiable disturbances or defamations, and even their own sergeant, who may appoint deputies *ad libitum* to aid him, (3 Grey 59, 147, 255;) is equal to small disturbances. That in requiring a previous law, the constitution had regard to the inviolability of the citizen, as well as of the member: as, should one House, in the regular form of a bill, aim at too broad privileges, it may be checked by the other, and both by the President; and also as, the law being promulgated, the citizen will know how to avoid offence. But if one branch may assume its own privileges without control; if it may do it on the spur of the occasion, conceal the law in its own breast, and after the fact committed, make its sentence both the law and the judgment on that fact; if the offence is to be kept undefined, and to be declared only *ex re nata*, and according to the passions of the moment, and there being no limitation, either in the manner or measure of the punishment, the condition of the citizen will be perilous indeed. Which of these doctrines is to prevail, time will decide. Where there is no fixed law, the judgment on any particular case is the law of that particular case only, and dies with it. When a new and even a similar case arises, the judgment

which is to make, and at the same time apply the law, is open to question and consideration, as are all new laws. Perhaps Congress in the mean time, in their care for the safety of the citizen, as well as that for their own protection, may declare by law what is necessary and proper to enable them to carry into execution the powers vested in them, and thereby hang up a rule for the inspection of all which may direct the conduct of the citizen, and at the same time test the judgments they shall themselves pronounce in their own case."

I take it for granted, that, until Congress shall pass laws regulating its privileges, we must look alone at the enumerated grants of privileges in the constitution, and to the ordinary judicial tribunals, for our necessary protection and safety. The only interference with the doctrines of Mr. Jefferson, upon this point, happened in a decision of the Supreme Court of the United States, in the case of *Anderson vs. Dunn*. Although that opinion does not, in the slightest degree, touch the privilege now for the first time claimed in this or any other country, yet I must say, I am not reconciled to its doctrines. I understand the doctrine of that case to be, not only that the power of punishment for contempts is implied from necessity, but that the degree of punishment is only limited "to the least possible power adequate to the end"—which can mean nothing more nor less than a power of punishment to any extent which the offended party may deem adequate.

That case, however, furnishes a principle totally at war with the present charge upon the President, of breach of privilege. The court declare "that it cannot be denied that the power to institute a prosecution must be dependent upon the power to punish." What punishment, let me ask, can one co-ordinate branch of this Government inflict upon another? We can have no hesitation in deciding upon what some of his triers for this breach of privilege would deem "adequate" punishment, if the power to punish existed. More than one of his triers have already declared, that President Jackson has done that, in regard to this bank, which, if done by a British monarch, would have brought his head to the block. Most righteous and merciful judges! The President's only offence is, that he has presented a view of his own rights and powers, in opposition to the expressed opinions of the Senate, which no Senator has or can answer, except by declaring that he has been guilty of a breach of privilege! And this result is arrived at, not from any view of our own constitution and laws, but from researches into the unadulterated nonsense of the privileges of a British Parliament.

I cannot conclude, sir, without remarking upon the unkind criticisms of gentlemen upon the allusions which the President makes, in justification of his patriotic motives, to the enduring memorials of that contest in which American liberty was purchased, which he now bears upon his bosom. This, too, is charged to have been done with the low design of enlisting the

feelings of the people on his side in this controversy, if controversy it must be called, and some doubts have even been expressed as to its truth. *Enumerat vulnera miles*. Let the soldier count his wounds without reproach. If this be crime, and a breach of privilege too, is there a revolutionary officer or soldier living, who is not equally guilty? Search your records, and ransack the pigeon-holes of your Secretary's office, find the name of every one who has presented a petition to you, and then send your sergeant-at-arms to bring them into your chamber. Arraign, try, condemn, punish, and incarcerate them; then put a tongue in every wound you see, and teach it to sing hosannas to the all-pervading, all-absorbing, transcendent, omniscient, omnipotent privileges of the Senate. It is the duty of patriotism to ask the remnant of our revolutionary veterans to leave us all the evidences of the hardship and dangers of the struggle through which they passed. Never did *Desdemona* listen with a more greedy ear to the tales of *Othello's* disastrous chances, than we, in our childhood, to the recitals of the battles, sieges, and fortunes of our revolutionary heroes: "so well their words become them as their wounds; they smacked of honor both." When they have gone, let us repeat their stories to our progeny, till we see the tear of gratitude glistening in their eyes, and their countenances lighted up with a glow of patriotism direct from the heart. Then turn to them the other side of the tapestry. Show them envy, the malice, uncharitableness, and mad ambition of the wretch in human form, who never perilled a hair in his country's service, stretching out his sacrilegious hand to snatch a laurel from the silvered brow of the aged warrior, sinking to his eternal rest.

TUESDAY, April 29.

Signers to Distress Petitions.

Mr. CLAY moved to take up the report containing an account of the aggregate number of individuals who had signed memorials for and against the United States Bank. By the report, it appears that 114,914 persons had petitioned for relief from the distress consequent upon the late act of the Executive, and 8,721 had presented memorials of an opposite character. Mr. C. moved that the report be printed, with 1,000 additional copies.

Mr. FORSYTH would like to know how many persons had signed memorials from the city of Philadelphia.

The Secretary intimated that he could not immediately give this information. The account of the meetings in Philadelphia was not in a condensed form—was scattered over the report.

Mr. FORSYTH then, with the permission of the Senator from Kentucky, would move to lay the report on the table until to-morrow. He would examine it in the mean time, and procure the information he required.

Mr. CLAY had no objection.

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President's Protest.

[SENATE.]

Polish Exiles.

Mr. POINDEXTER, with the leave of the Senator from Pennsylvania, would make a report. The Committee on Public Lands, to whom was referred the petition of 285 Poles, recently arrived in this country, had intrusted him to make a report, accompanied with a bill. The committee did not recognize the policy of granting land, generally, to foreigners who sought refuge on these shores; but were of opinion that an exception should be made in favor of the gallant and unfortunate strangers, in the present case. After passing a eulogium upon Poland and her noble sons, the report went on to describe the peculiar case of the petitioners, and concluded by recommending that a portion of land be granted to them in Michigan, or some other suitable Territory. Mr. P. said he would ask that the bill he had presented be made a special order for Thursday week. If any thing were done in this matter, it was necessary that it should be done quickly. The early attention of the Senate would enable the House to act upon the subject during the present session.

The proposition was agreed to.

WEDNESDAY, April 30.

President's Protest.

The Senate then proceeded to the consideration of the special order, being the resolutions offered by Mr. POINDEXTER, as modified by Mr. CLAY;

The question being on the motion of Mr. BIBB to amend—

Mr. CLAY rose. Never, said he, Mr. President, have I known or read of an administration which expires with so much agony, and so little composure and resignation, as that which now unfortunately has the control of public affairs in this country. It exhibits a state of mind, feverish, fretful, and fidgety, bounding recklessly from one desperate expedient to another, without any sober or settled purpose. Ever since the dog-days of last summer, it has been making a succession of the most extravagant plunges, of which the extraordinary cabinet paper, a sort of appeal from a dissenting cabinet to the people, was the first; and the protest, a direct appeal from the Senate to the people, is the last and the worse.

A new philosophy has sprung up within a few years past, called phrenology. There is, I believe, something in it, but not quite as much as its ardent followers proclaim. According to its doctrines, the leading passion, propensity, and characteristics, of every man are developed in his physical conformation, chiefly in the structure of his head. Gall and Spurzheim, its founders, or most eminent propagators, being dead, I regret that neither of them can examine the head of our illustrious Chief Magistrate. But, if it could be surveyed by Dr. Caldwell, of

Transylvania University, I am persuaded that he would find the organ of destructiveness prominently developed. Except an enormous fabric of Executive power for himself, the President has built up nothing, constructed nothing, and will leave no enduring monument of his administration. He goes for destruction, universal destruction; and it seems to be his greatest ambition to efface and obliterate every trace of the wisdom of his predecessors. He has displayed this remarkable trait throughout his whole life, whether in private walks or in the public service. He signally and gloriously exhibited that peculiar organ when contending against the enemies of his country in the battle of New Orleans. For that brilliant exploit, no one has ever been more ready than myself to award him all due honor. At the head of our armies was his appropriate position, and most unfortunate for his fame was the day when he entered on the career of administration as the chief Executive officer. He lives by excitement, perpetual, agitating excitement, and would die in a state of perfect repose and tranquillity. He has never been without some subject of attack, either in individuals, or in masses, or in institutions. I have been myself one of his favorites, and I do not know but that I have recently recommended myself to his special regard. During his administration this has been his constant course. The Indians and Indian policy, internal improvements, the colonial trade, the Supreme Court, Congress, the bank, have successively experienced the attacks of his haughty and imperious spirit. And if he tramples the bank in the dust, my word for it, we shall see him quickly in chase of some new subject of his vengeance. This is the genuine spirit of conquerors and of conquest. It is said by the biographer of Alexander the Great, that, after he had completed his Asiatic conquests, he seemed to sigh because there were no more worlds for him to subdue; and, finding without no further employment for his valor or his arms, he turned within himself to search the means to gratify his insatiable thirst of glory. What sort of conquest he achieved of himself, the same biographer tragically records.

Already has the President singled out and designated, in the Senate of the United States, the new object of his hostile pursuit; and the protest, which I am now to consider, is his declaration of war. What has provoked it? The Senate, a component part of the Congress of the United States, at its last adjournment left the Treasury of the United States in the safe custody of the persons and places assigned by law to keep it. Upon re-assembling, it found the treasure removed; some of its guardians displaced; all, remaining, brought under the immediate control of the President's sole will; and the President having free and unobstructed access to the public money. The Senate believes that the purse of the nation is, by the constitution and laws, intrusted to the exclusive legislative care of Congress. It has dared to

avow and express this opinion, in a resolution adopted on the 28th March last. That resolution was preceded by a debate of three months' duration, in the progress of which, the able and zealous supporters of the Executive in the Senate, were attentively heard. Every argument which their ample resources, or those of the members of the Executive, could supply, was listened to with respect, and duly weighed. After full deliberation, the Senate expressed its conviction that the Executive had violated the constitution and laws. It cautiously refrained, in the resolution, from all examination into the motives or intention of the Executive; it ascribed no bad ones to him; it restricted itself to a simple declaration of its solemn belief that the constitution and laws had been violated. This is the extent of the offence of the Senate. This is what it has done to excite the Executive indignation, and to bring upon it the infliction of the denunciatory protest.

The President comes down upon the Senate, and demands that it record upon its Journal this protest. He recommends no measure—no legislation whatever. He proposes no Executive proceeding on the part of the Senate. He requests the recording of his protest, and he requests nothing more nor less. The Senate has abstained from putting on its own record any vindication of the resolution of which the President complains. It has not asked of him to place it, where he says he has put his protest, in the archives of the Executive. He desires, therefore, to be done for him, on the Journal of the Senate, what has not been done for itself. The Senate keeps no recording office for protests, deeds, wills, or other instruments. The constitution enjoins that "each House shall keep a Journal of its proceedings." In conformity with this requirement, the Senate does keep a Journal of its proceedings—not the proceedings of the Executive, or any other department of the Government, except so far as they relate directly to the business of the Senate. The President sometimes professes to favor a strict construction of the constitution, at least in regard to the powers of all the departments of the Government other than that of which he is the chief. As to that, he is the greatest latitudinarian that has ever filled the office of President. Upon any fair construction of the constitution, how can the Senate be called upon to record upon its Journal any proceedings but its own? It is true, that the ordinary Messages of the President are usually inserted at large in the Journal. Strictly speaking, it perhaps ought never to have been done; but they have been heretofore registered, because they relate to the general business of the Senate, either in its legislative or executive character, and have been the basis of subsequent proceedings. The protest stands upon totally distinct ground.

The President professes to consider himself as charged, by the resolution, with "the high crime of violating the laws and constitution of my country." He declares that "one of the

most important branches of the Government, in its official capacity, in a public manner, and by its recorded sentence, but without precedent, competent authority, or just cause, declares him guilty of a breach of the laws and constitution." The protest further alleges, that such an act as the constitution describes "constitutes a high crime—one of the highest, indeed, which the President can commit—a crime which justly exposes him to an impeachment by the House of Representatives; and, upon due conviction, to removal from office, and to the complete and immutable disfranchisement prescribed by the constitution." It also asserts: "The resolution, then, was an impeachment of the President; and in its passage amounts to a declaration by a majority of the Senate, that he is guilty of an impeachable offence." The President is also of opinion "that the resolution does not expressly allege that the assumption of power and authority which it condemns, was intentional and corrupt, is no answer to the preceding view of its character and effect. The act thus condemned necessarily implies volition and design in the individual to whom it is imputed; and, being lawful in its character, the legal conclusion is, that it was prompted by improper motives and committed with an unlawful intent." * * * * * "The President of the United States, therefore, has been, by a majority of his constitutional triers, accused and found guilty of an impeachable offence."

Such are the deliberate views, entertained by the President, of the implications, effects, and consequences of the resolution. It is scarcely necessary to say that they are totally different from any which were entertained by the Senate, or by the mover of the resolution. The Senate carefully abstained from looking into the *quo animo*, from all examination into the motives or intention with which the violation of the constitution and laws was made. No one knows those motives and intentions better than the President himself. If he chooses to supply the omission of the resolution; if he thinks proper to pronounce his own self-condemnation; his guilt does not flow from what the Senate has done, but from his own avowal. Having cautiously avoided to pass upon his guilt by pre-judgment, so neither ought his acquittal to be pronounced by anticipation.

But, I would ask, in what tone, temper, and spirit, does the President come to the Senate? As a great state culprit, who has been arraigned at the bar of justice, or sentenced as guilty? Does he manifest any of those compunctious visitings of conscience which a guilty violator of the constitution and laws of the land ought to feel? Does he address himself to a high court with the respect, to say nothing of humility, which a person accused or convicted would naturally feel? No, no. He comes as if the Senate were guilty; and as if he were in the judgment seat, and the Senate stood accused before him. He arraigns the Senate; puts it

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upon trial; condemns it: he comes as if he felt himself elevated far above the Senate, and beyond all reach of the law, surrounded by unapproachable impunity. He who professes to be an innocent and injured man, gravely accuses the Senate, and modestly asks it to put upon its own record his sentence of condemnation! When before did the arraigned or convicted party demand of the court which was to try, or had condemned him, to enter upon their records a severe denunciation of their own conduct? The President presents himself before the Senate, not in the garb of suffering innocence, but in imperial and royal costume—as a dictator, to rebuke a refractory Senate; to command it to record his solemn protest; to chastise it for disobedience.

*"The hearts of princes kiss obedience,
So much they love it; but to stubborn spirits
They swell, and grow as terrible as storms."*

We shall better comprehend the nature of the request which the President has made of the Senate, by referring to his own opinions expressed in the protest. He says that the resolution is a recorded sentence, "but without precedent, just cause, or competent authority." He "is perfectly convinced that the discussion and passage of the above-mentioned resolutions were not only unauthorized by the constitution, but in many respects repugnant to its provisions, and subversive of the rights secured by it to other co-ordinate departments." We had no right, it seems, then, even to discuss, much less express any opinion, on the President's proceedings encroaching upon our constitutional powers. And what right had the President to look at all into our discussions? What becomes of the constitutional provision which, speaking of Congress, declares, "for any speech or debate in either House, they shall not be questioned in any other place?"

The President thinks "the resolution of the Senate is wholly unauthorized by the constitution, and in derogation of its entire spirit." He proclaims that the passage, recording, and promulgation of the resolution, affixes guilt and disgrace to the President, "in a manner unauthorized by the constitution." But, says the President, if the Senate had just cause to entertain the belief that the House of Representatives would not impeach him, that cannot justify "the assumption by the Senate of powers not conferred by the constitution." The protest continues: "It is only necessary to look at the condition in which the Senate and the President have been placed by this proceeding, to perceive its utter incompatibility with the provisions and the spirit of the constitution, and with the plainest dictates of humanity and justice." A majority of the Senate assume the function which belongs to the House of Representatives, and "convert themselves into accusers, witnesses, counsel, and judges, and pre-judge the whole case." If the House of Representatives shall consider that there is no cause of impeachment, and prefer none, "then will

the violation of privilege as it respects that House, of justice as it regards the President, and of the constitution as it relates to both, be more conspicuous and impressive." The Senate is charged with the "unconstitutional power of arraigning and censuring the official conduct of the Executive." The people, says the protest, will be compelled to adopt the conclusion, "either that the Chief Magistrate was unworthy of their respect, or that the Senate was chargeable with calumny and injustice." There can be no doubt which branch of this alternative was intended to be applied. The President, throughout the protest, labors to prove himself worthy of all respect from the people. Finally, the President says, "It is due to the high trust with which I have been charged, to those who may be called to succeed me in it, to the representatives of the people whose constitutional prerogative has been unlawfully assumed, to the people and to the States, and to the constitution they have established, that I should not permit its provisions to be broken down by such an attack on the Executive department, without at least some effort 'to preserve, protect, and defend them.'"

These are the opinions which the President expresses in the protest, of the conduct of the Senate. In every form, and every variety of expression, he accuses it of violating the express language and spirit of the constitution; of encroaching not only on his prerogatives, but those of the House of Representatives; of forgetting the sacred character and impartiality which belong to the highest court of justice in the Union; of injustice, of inhumanity, and of calumny. And we are politely requested to spread upon our own Journal these opinions entertained of us by the President, that they may be perpetually preserved and handed down to posterity! The President respectfully requests it! He might as well have come to us and respectfully requested us to allow him to pull our noses, or kick us, or receive his stripes upon our backs. The degradation would not have been much more humiliating.

The President tells us, in the same protest, that any breach or violation of the constitution and laws, draws after it, necessarily implies, volition and design, and that the legal conclusion is, that it was prompted by improper motives, and committed with an unlawful intent. He pronounces, therefore, that the Senate, in the violations of the constitution which he deliberately imputes to it, is guilty; that volition and design, on the part of the Senate, are necessarily implied; and that the legal conclusion is, that the Senate was prompted by improper motives, and committed the violation with an unlawful intent. And he most respectfully and kindly solicits of the Senate to overleap the restraint of the constitution, which limits its Journal to the record of its own proceedings, and place alongside of them his sentence of condemnation of the Senate.

That the President did not intend to make

the Journal of the Senate a medium of conveying his sentiments to the people, is manifest. He knows perfectly well how to address to them his appeals. And the remarkable fact is established, by his private Secretary, that, simultaneously with the transmission to the Senate of his protest, a duplicate was transmitted to the Globe, his official paper, for publication; and it was forthwith published accordingly. For what purpose, then, was it sent here? It is painful to avow the belief, but one is compelled to think it was only sent in a spirit of insult and defiance.

The President is not content with vindicating his own rights. He steps forward to maintain the privileges of the House of Representatives also. Why? Was it to make the House his ally, and to excite its indignation against the offending Senate? Is not the House perfectly competent to sustain its own privileges against every assault? I should like to see, sir, a resolution introduced into the House, alleging a breach of its privileges by a resolution of the Senate, which was intended to maintain unviolated the constitutional rights of both Houses in regard to the public purse, and to be present at its discussion.

The President exhibits great irritation and impatience at the presumptuousness of a resolution, which, without the imputation of any bad intention or design, ventures to allege that he has violated the constitution and laws. His constitutional and official infallibility must not be questioned. To controvert it is an act of injustice, inhumanity, and calumny. He is treated as a criminal, and, without summons, he is prejudged, condemned, and sentenced. Is the President scrupulously careful of the memory of the dead, or the feelings of the living, in respect to violations of the constitution? If a violation by him implies criminal guilt, a violation by them cannot be innocent and guiltless. And how has the President treated the memory of the immortal Father of his Country? that great man, who, for purity of purpose and character, wisdom and moderation, unsullied virtue and unsurpassed patriotism, is without competition in past history or among living men, and whose equal we scarcely dare hope will ever be again presented as a blessing to mankind. How has he been treated by the President? Has he not again and again pronounced that, by approving the bill chartering the first Bank of the United States, Washington violated the constitution of his country? That violation, according to the President, included volition and design; was prompted by improper motives, and was committed with an unlawful intent. It was the more inexcusable in Washington, because he assisted and presided in the convention which formed the constitution. If it be unjust to arraign, try unheard, and condemn as guilty, a living man filling an exalted office, with all the splendor, power, and influence which that office possesses, how much more cruel is it to disturb the sacred and vener-

ated ashes of the illustrious dead, who can raise no voice and make no protests against the imputation of high crime?

What has been the treatment of the President towards that other illustrious man, yet spared to us, but who is lingering upon the very verge of eternity? Has he abstained from charging the Father of the Constitution with criminal intent in violating the constitution? Mr. Madison, like Washington, assisted in the formation of the constitution; was one of its ablest expounders and advocates; and was opposed, on constitutional ground, to the first Bank of the United States. But, yielding to the force of circumstances, and especially to the great principle, that the peace and stability of human society require that a controverted question, which has been finally settled by all the departments of Government by long acquiescence, and by the people themselves, should not be open to perpetual dispute and disturbance, he approved the bill chartering the present Bank of the United States. Even he, the name of James Madison, which is but another for purity, patriotism, profound learning, and enlightened experience, cannot escape the imputations of his present successor.

And, lastly, how often has he charged Congress itself with open violations of the constitution? Times almost without number. During the present session he has sent in a message, in regard to the land bill, in which he has charged it with an undisguised violation. A violation so palpable, that it is not even disguised; and must, therefore, necessarily imply a criminal intent. Sir, the advisers of the President, whoever they are, deceive him and themselves. They have vainly supposed that, by an appeal to the people, and an exhibition of the wounds of the President, they could enlist the sympathies and the commiseration of the people—that the name of Andrew Jackson would bear down the Senate and all opposition. They have yet to learn, what they will soon learn, that even a good and responsible name may be used so frequently, as an endorser, that its credit and the public confidence in its solidity, have been seriously impaired. They mistake the intelligence of the people, who are not prepared to see and sanction the President putting forth indiscriminate charges of a violation of the constitution against whomsoever he pleases, and exhibiting unmeasured rage and indignation, when his own infallibility is dared to be questioned.

MONDAY, May 5.

President's Protest.

The Senate proceeded to the consideration of the resolutions of Mr. POINDEXTER, as modified on motion of Mr. CLAY;

The question being on the amendment offered by Mr. BIBB—

Mr. WRIGHT said he had to thank the Senate

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for its indulgence in permitting him now to extricate himself from the unpleasant position in which he had, for several days, been placed in relation to the present debate. When he obtained the floor, four days ago, his principal and almost only object was to reply to some of the remarks which on that day had been made by the honorable Senator from Kentucky, (Mr. CLAY.) Although time had been given to him for further reflection, he still could not consider it his duty materially to alter that course. The proceedings of the morning had evinced to him a strong disposition in the Senate to close the debate, and he hoped not to occupy so much of their time as to show any other inclination. In answer to a suggestion which had fallen from some honorable Senator in the course of the morning, he believed he could say that the time which had elapsed since he had been entitled to the floor, would not induce him to extend his remarks, or to make a larger draft upon the time of the body, than he should have done, if he had been permitted to succeed the honorable Senator more immediately. The delay had been unpleasant to him, but he had tried to improve it to condense rather than extend his remarks.

The question before the Senate was the disposition which should be made, by that body, of the paper upon the table, denominated the President's protest.

The paper complained that the Senate had passed a sentence against the President, in its nature and character judicial, while the provisions of the constitution had not been observed in the proceeding. It complained that the Senate had virtually constituted itself the impeaching body, by the course it had taken, whereas the constitution had conferred the sole power of impeachment upon the House of Representatives; that it had proceeded to final judgment and sentence against the accused, without allowing him a trial upon the accusation, or the privilege of being heard in his defence; that the laws for the organization of the Senate in such cases had not been observed, inasmuch as the Chief Justice of the Supreme Court had not been called to preside over its deliberations, and as no "oath or affirmation" had been administered to the individual Senators—a qualification which the constitution expressly required to enable them to sit in the high court for the trial of impeachments: and it further complained that the sentence of the Senate had been pronounced and made a perpetual record, by entry upon its Journal, without having received the vote of two-thirds, required by the constitution to authorize the Senate to enter a judgment of guilty against any public officer.

Mr. W. said it was not his purpose, at this time, to examine the justice of these complaints. Upon a former occasion, and when the resolution complained of was before the Senate, he had been indulged with the opportunity to submit his views upon all the important questions involved

in the paper now under consideration. The deliberate conviction of his own mind then was, that the resolution was, and must be considered, judicial in its character; that its passage must be held as a final judgment upon an impeachment for the offences specified in it; and that all the moral consequences of such a judgment, upon the officer against whom it was directed, might follow its record upon the Journal of the Senate. He had not, however, then been fortunate enough to convince the majority of the Senate that his positions were well taken, and he had no hope that a repetition of that effort would be attended with any better success now. Upon a careful review of the argument he had then made, he could not promise himself that he could mend or strengthen it by a repetition, and he would not consume the time of the Senate by an attempt to do so. He said he should hold himself excused from the discussion of these questions upon the present occasion, even if he had not attempted to establish them by argument when the resolution was under discussion, because the communication of the President argued them at large, and, in his humble judgment, that paper was its own best defence upon these points. He had not heard its material facts impugned, or its reasoning successfully assailed; and surely it was unnecessary for him to attempt to defend that which was already sufficiently defended. By any attempt to strengthen what seemed to him impregnable, he might impair a defence which did not call for his support.

Mr. W. said his object would therefore be, to give to the Senate, as concisely as he might, his views of the immediate questions presented for their decision, and then to proceed in his replies to the honorable Senator from Kentucky. In order, however, that the whole subject might be clearly understood, he considered it his duty, before he proceeded further, to correct one mistake which several gentlemen seemed to have fallen into at the early part of the discussion. He referred more particularly to both the honorable Senators from New Jersey, because their remarks were more clearly impressed upon his memory. They had spoken of the protest as embracing and complaining of the passage of both the resolutions offered by the honorable member from Kentucky. This was a mistake of fact, important in its bearing upon the discussion. It had been seen, upon the first appearance of the paper, that it was important to those who had sustained the resolution complained of, to show that it was connected with the legislation of the Senate, and was calculated to lead to legislative action. In their ardor to show this, gentlemen had carelessly blended the two resolutions, and had discussed the communication of the President as referring to both. This was not so. One of the resolutions merely pronounced upon the official conduct of the President, while the other declared the reasons of the Secretary of the Treasury for the change of the public deposits from the

Bank of the United States to the State banks "unsatisfactory and insufficient," in the judgment of the Senate. The latter resolution might lead to legislation, and perhaps was calculated to do so; for, if the reasons for the change of the deposits were considered unsatisfactory, the Senate might consider it proper to originate a law or joint resolution directing their restoration. This would be within the conceded jurisdiction of the Senate; and he had not heard that either the President or any one else, denied the power of the Senate to take that course, or the propriety of its doing so. The protest surely contained no such denial, nor did it contain any reference whatever to this last-mentioned resolution. Its complaints were all directed to the first; to that resolution which pronounced the President guilty of unconstitutional and illegal acts, without any reference to legislation. The paper left no room for misconception or mistake upon this point, for it recited at length the resolution to which alone it referred. He must, therefore, insist that this point should be clearly understood hereafter; and that the President's communication should not be either condemned or pronounced erroneous or false, for complaining of an act of the Senate, to which it did not contain the most remote reference. The resolutions were entirely independent of each other, and contained expressions of opinion upon separate and entirely independent subjects; and the President had only complained of that one which criminated him. Of that which simply pronounced upon the reasons of the Secretary, he had said nothing.

The points presented for the decision of the Senate, as the subject presented itself to his mind, Mr. W. said, were three:

1st. Had the President a right to send the protest to the Senate?

2d. Is it the duty of the Senate to receive it?

3d. Is it the duty of the Senate to enter it upon its Journal?

Mr. W. said, in the course of the debate frequent reference had been made to the duty of the President, found in the constitution in the following words:

"He shall, from time to time, give to the Congress information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient."

And the question had been confidently asked, and more confidently repeated, Where is the authority in this provision of the constitution for the President to send to the Senate a paper of this character? He did not consider the communication now under discussion as having any relation whatever to the clause of the constitution he had just read. It was not, in any sense, a communication giving "information of the state of the Union, nor did it recommend any measure to the consideration of Congress, nor was it a communication to Congress of any description. It was a communication to

the Senate alone, simply remonstrating against a proceeding of that body condemning the official conduct of the President, and pronouncing him guilty of an impeachable offence. Mr. W. said he did not know that his views upon this point were correct, but he considered the right of the President to make this communication the same which every citizen of the United States possessed by the constitution to address either or both Houses of Congress in a respectful manner, upon any subject in which his individual or official rights and interests are involved. What, said Mr. W., is the character of the communication before us? It states that a proceeding of the Senate has infringed upon the constitutional rights of the Executive branch of the Government; that we have pronounced the President, as such, guilty of an impeachable offence, and have thus visited upon his character and fame the moral effects, so far as our pronouncement may have weight, of a conviction for a high crime, although the legal consequences of a regular sentence, after a trial upon an impeachment, do not follow. Hence he feels himself aggrieved, both personally and officially, and he sends to us his remonstrance and protest against the injury. This is the paper, conceded on all hands to be respectful in its language and manner, and addressed to the justice of the body which has inflicted the injury. That any private citizen, who might feel himself aggrieved by the action of the Senate, would possess the right thus to remonstrate, will not be denied; and has the President lost that right because he happens to hold the first office in the gift of the people? Is the possession of a public office to deprive the citizen of his constitutional right to protect his public and private character, or even of the humble right of complaint, when he shall consider his character and acts unjustly assailed? He, Mr. W., did not understand that any such limitation to the right of petition or remonstrance had been prescribed by the constitution; he had not been able to find any such disability annexed to the possession of an honorable and responsible office, and he called upon honorable Senators to pause and reflect before they attempted, by their action in this instance, to establish a rule which might not only bind themselves, but take from them one of their most dear and invaluable rights. This was his view of the right of the President to send this paper to the Senate and he could not but consider it as clear and indisputable, as the right of any citizen of the country to petition the Senate for any purpose whatsoever.

Is it then the duty of the Senate to receive the paper? His answer to this question was, that the duty of the Senate, as to the receipt of this paper, is the same with its duty as to the receipt of any petition or remonstrance, respectful in its language and manner, and addressed to the body. He could see no possible distinction, and surely if he had succeeded in establishing the right of the President to send

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the paper to the Senate, upon the ground upon which he had put that right, there could be no distinction. Either was the constitutional right of the citizen, and that the injury complained of in this instance had a double bearing—that the President's character, in an official as well as in a private sense, had been unjustly assailed and deeply injured; and that the remonstrance and protest reached and exposed the injury in both respects, could not affect the right to present the paper, or the duty of the Senate to receive it when presented. Mr. W. said he had already remarked, that the communication was admitted upon all sides to be respectful in its language and manner, and he would not anticipate any objection to its receipt, founded upon exceptions in these particulars, so long as no such exceptions had been taken. His acquaintance with parliamentary rules was very limited, but he did understand it to be the duty of every legislative body, especially of the legislative bodies of this country, to receive every petition and remonstrance addressed to them in language respectful to the body, and to its individual members, and until this character should be denied to the paper before the Senate, he must consider it the imperative duty of the Senate to receive it.

This, Mr. W. said, brought him to his third point. Is it the duty of the Senate to enter the protest of the President upon its Journal? This question he considered addressed itself to the justice of the Senate, and the entry of the paper upon the Journal became a duty or not, as the Senate should or should not think its entry there an act of justice to itself and to the individual from whom it came. For himself he could not entertain a doubt, that justice to the President, to the Senate, and to the public, required that it should be made a perpetual record, by an entry upon the Journal. The Senate had entered upon that Journal, and pronounced to the world, the high charge against the President, of a violation of the constitution and laws. They had not given to the President any opportunity to offer his defence to their accusations, but, without notice to him, they had made them a part of their recorded proceedings; and their Journal, laid upon his table, and showing to him his conviction, was his only notice of their action. Feeling aggrieved personally and officially by the sentence itself, which he considers unjust, and by the manner in which it was pronounced, without notice to him and without any opportunity on his part to defend himself, and by exhibiting the truth, to defeat a conviction, he now makes this communication, setting forth the injustice of the proceeding of the Senate towards him, and presenting his defence to the charges made against him, so far as any such charges have been specifically set forth. This, his defence and exculpation, he respectfully requests may be entered upon the same Journal upon which the Senate has recorded his guilt, in order that the record which carries

down to future days the resolution condemning him, may carry along with it his justification. Is not the request a reasonable one? Is it not an act of duty to the high officer accused, that he should thus be permitted to perpetuate his defence against an irregular and informal condemnation by the Senate? Is it not just to the President that his defence should be spread upon our Journal by the side of that condemnation which we have voluntarily pronounced against him, and that both should be embraced in the same record, and be thus left together for the inspection and judgment of our successors and the public. It is said, as a reason for refusing this communication a place upon the Journal of the Senate, that the President has no right to demand its entry there. Sir, said Mr. W., he has made no such demand; he claims no right to make such a demand; he merely requests, respectfully requests us to permit its being thus entered, to the end that in all future time, the Journal may exhibit the whole case. This request is a full admission, if one were needed, that the President makes no claim of right to have this paper spread upon our Journal. Was ever such a request found in those communications which the President makes to Congress under the clause of the constitution before quoted? Certainly not; and this simple fact shows most conclusively that the President did not consider this communication as coming at all within the class of communications there mentioned, or as made by virtue of the power there given, or rather the duty there imposed upon him. He sends this paper to the Senate as his personal and official defence against a personal and official accusation which we have entered upon our Journal, and he asks of our justice, what he does not claim as a right, that we shall give the same perpetuity and publicity to his defence, which we have given to our charges. It is further said, as a reason both for refusing to enter the communication upon our Journal, and for refusing even to receive it, that it is in itself a breach of the privileges of the Senate. Mr. W. said he was little, very little acquainted with this doctrine of "the privileges of Parliament." He had never found it either pleasant or profitable to himself to study the doctrine, and after the examples given to the Senate but a few days since, by the honorable Senator from Illinois, (Mr. KANE,) of the odious and disgusting ceremonies gravely practised by a British House of Commons by way of punishment for breaches of the "privileges" of that legislative body, he felt sure that the Senate of the United States would not find its attachment to parliamentary privileges strengthened. Still British precedents had been cited to justify the course which was proposed for the Senate in relation to this message from the President. So far as he had heard these precedents read, and so far as he had been able to examine them in the course of his partial research, he believed them all wholly inapplicable to the case before the

Senate. They are all cases of communications from the Crown to the one or the other House of Parliament, pending some legislative action, and designed to influence that action. They are not complaints of individual injustice to the Prince, or of encroachments upon the powers and rights of the Executive; but they are attempts on the part of the Crown to dictate to the Legislature its course of legislative action. Such is not the case before the Senate. Here is no effort to influence the action of the Senate, or the votes of Senators, for the votes had been given and the action was complete weeks before the communication came to the Senate. The communication relates to an act of the Senate, not legislative, but judicial, in its nature and character, and the *gravamen* of the complaint is that the action has been completed, and the sentence of the Senate passed, without notice to the President, who was the accused officer, and without allowing him to be heard in his defence. Were it otherwise; had the President made a communication of this character to the Senate while the resolution complained of was before the body, and not definitively acted upon; and had the complaint then been made of an attempt by the President to influence the action of the Senate, it would have seemed to be worthy of some attention. But surely this objection comes too late when our votes are recorded, our resolution adopted, and our action not only completed but passed beyond our power of recall. The paper before us is not designed to influence our action, but to show that we have acted unlawfully and unjustly, and have thereby deprived a distinguished citizen, and the highest officer in the Government, of his constitutional and legal rights.

Mr. W. said it remained for him to reply, as briefly as possible, to some of the remarks of the honorable Senator from Kentucky, (Mr. CLAY,) and having done so, he would relieve the Senate from hearing him further.

The honorable Senator told us, and I was somewhat surprised that he had been able to convince himself that such was the fact, that the advocates of the resolution uniformly avoided speaking of the motives of the President. Had the honorable gentleman forgotten that in almost the first sentence of his address, on opening the debate, he pronounced to the Senate and the country that the President was attempting to grasp all the powers of this Government into his single hand? Had he forgotten how frequently that officer of the Government was, during the course of this debate, termed a despot, a usurper, a military chieftain? how often the harsh term of "a robbery of the public treasury" was applied to the act of the removal of the deposits?

[Here Mr. CLAY explained. He said he did not intend to refer to the debates in his remarks in relation to the President's motives; that what he had intended to say, was, that the resolution contained no imputation upon his motives.]

Mr. WRIGHT said he would accept the gentleman's explanation; for he felt sure, at the time he heard the remark, that it was not intended in its literal sense. The gentleman used the term "advocates," from which Mr. W. inferred that he alluded to the debates; but as his explanation seemed to admit that, in the debates upon the resolution, the motives of the President were not permitted to escape accusation, he would consider the remark as applied to the resolution itself. And what, said Mr. W., is the resolution, as it stands upon the Journal? Is it merely an accusation, an indictment, an article of impeachment? No, sir. It is a judgment upon an accusation. It does not accuse; but, assuming all anterior proceedings, it convicts. In vain, then, do gentlemen tell us that it does not, in its terms, refer to the motives of the President, and that an impeachment must accompany an accusation of crime with an allegation of a corrupt or wicked intent. The position was true as to indictments, and might be true as to impeachments, though Mr. W. believed the allegation of wicked intent was not indispensable in the latter; but however that might be, no one would contend that any reference to the intention of the defendant is ever made in the entry upon the record of a criminal judgment. That entry merely pronounces the accused guilty of the crime charged in the most general language; and the judgment thus entered carries with it, by necessary implication, all that is required to sustain itself. It relates back to the proceedings anterior to the judgment, for the form of accusation, the allegations of intentions, and all else which should have existed to sustain the judgment, and in the absence of those proceedings, the entry of the judgment simply must be held as the strongest *prima facie* evidence that those preliminary proceedings were regular and sufficient. Such, Mr. W. said, was the light in which he viewed the resolution of the Senate. It pronounced the judgment of a majority of the Senate upon an impeachable offence charged against the President. This pronouncement of a judgment of guilty was the only entry upon record, and that entry must, of necessity, carry with it the unavoidable implication of all the preliminary proceedings requisite to authorize the judgment to be so entered. Who, then, could say that the protest was wrong in thus stating the case? And who will say that the President was wrong in complaining of and protesting against this conviction, to whom it shall be known that no preliminary proceedings whatever were had? that no accusation was ever made, and that this general entry of a judgment of condemnation is the only step ever taken? Mr. W. said, if there were no other reason for entering the protest upon the Journal of the Senate, this consideration alone, in his judgment, made it their imperious duty so to enter it, as an act of sheer justice to the President, because, without it, the Journal would not show the true history of the transaction, and would not therefore be

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stripped of the unjust, and, as it would seem from the remarks of gentlemen in this debate, unintended implication to which he had alluded.

Mr. President, said Mr. W., I was much pleased when the honorable Senator told us that this message of the President ought to be diffused; that he hoped a copy of it would reach the hands, and meet the eye and careful perusal of every man, woman, and child in the country; and that he would gladly contribute from his own private means to give it circulation. I agree with him fully in this opinion, and this wish, but judging from the character and tendency of his remarks, we must have come to a like conclusion from very different views of the paper, and of the effects to be produced upon the public mind by its extended distribution. I think it eminently calculated to justify not only the motives, but the acts of the President, with the public; to arouse the public attention to the dangerous, and as I think, unconstitutional exercise of power by this body, in their late condemnation of the President, without an impeachment, and without a trial; and to extend the popularity of that worthy public servant, and strengthen the salutary principles of his administration. The honorable Senator must suppose that effects, precisely the reverse of these, will be produced by the circulation of this message, or, surely, he would not voluntarily contribute to its circulation. He, no doubt, thinks that the paper is calculated to produce a belief in the existence of those alarming encroachments of Executive power against which he so frequently and so eloquently warns us. But whether the honorable Senator or myself be correct in our impressions as to the effect to be produced by the circulation of the message, so long as we both agree that important and salutary purposes would be accomplished by its universal distribution, ought we not also to agree upon the propriety and duty of making so important a paper, and from the reading of which we anticipate so important consequences, a matter of perpetual record upon our Journal? I appeal to the honorable Senator to say whether the consequence he has himself attached to the message does not show that it ought to be perpetuated as a part of our national history. If it contain evidence of Executive encroachments dangerous to our civil institutions, ought we not to spread it upon our Journal, as a solemn warning to all future Presidents against the like attempts? If it unjustly assail the Senate or any of its members, do we not owe it to ourselves and to our constituents to record the aggression and to place our answer and defence by its side? On the other hand, if, as I suppose, the Senate have encroached upon the constitutional rights of the Executive, and the message exposes the violation of our powers, are we not bound, in strict justice to the President, to give the exposition a place upon the same record which contains our violation? In any sense, Mr. W. said, in which he could view the subject, the

message ought to be entered upon the Journal, and he was at a loss to know how gentlemen were able to reconcile it to their feelings to pronounce the paper important, and its wide circulation useful and desirable, and then contend that it ought not to be thus perpetuated. They could not desire to fix upon it this mark of the disapprobation of the Senate, to precede its circulation among the people. They could not fear its effects in the hands of our enlightened citizens, unless that effect shall be modified by this unfavorable treatment of the paper here. He did hope Senators would reflect upon the importance of the questions involved, and would give the message its place upon the Journal of the Senate. But, Mr. President, if the Senate shall conclude to refuse the paper an entry upon the Journal, will they enter upon that Journal the resolutions before you, characterizing and condemning it? Will they pronounce the message unconstitutional, an encroachment of Executive power, and a breach of the privileges of the Senate, and not let that Journal show upon what that harsh judgment was formed? Will they compel us to record our names against the resolutions, and refuse us an entry of the paper to justify or condemn our course? I hope not. If the message is to be excluded, I do hope that the Senate will be content with its exclusion simply, and that if its contents are to be examined for grounds upon which to condemn it, the paper, itself, may be allowed a place by the side of our condemning sentence, that all who hereafter read our Journal may be able to judge between those who approve and those who disapprove it.

Mr. W. said the honorable Senator had told us that the President had not come here in the humble and subdued tone of a convicted culprit, but in a tone and spirit indicating a feeling far above any tribunal of the country. He does not come here, sir, in the tone of a criminal or convict, for he is neither; but he comes here in the tone and spirit of an injured man. His personal and official rights have been assailed and violated, and a sentence has been pronounced against him calculated to have the moral influence upon his character and fame, of a conviction for crime, while he has not even been constitutionally accused, much less tried or convicted. It is of this he complains. He is not resisting a judicial sentence, regularly pronounced, but an effort to visit upon him the evil consequences of such a sentence, without allowing him a trial, and against the positive provisions of the constitution. Should he then come in the subdued spirit of a convict? But where does the Senate find authority for saying that the message displays a feeling in the President "far, far above any tribunal of the country?" To what tribunals of the country is the President, as such, legally subject? To the House of Representatives by way of impeachment, and to this body by way of trial upon such impeachment, and to the great tribunal of the people. Has he not in the message express-

ly recognized and acknowledged his subjection, according to the provisions of the constitution, to the two Houses of Congress? Is not his complaint that the provisions of that instrument have not been regarded in the late action of the Senate, but that this House of Congress has stepped by the other and assumed a jurisdiction not conferred upon it by the constitution? And is not the message itself an appeal to the Senate against its own injustice, and, in effect, through the Senate, to the tribunal of public opinion, the only tribunal to which an appeal can be taken from the decisions of the Senate? Is it right then to say that the President, in his message, has exhibited a feeling above the tribunals of the country to which he is responsible? I am sure the Senator's sense of justice will show him that he does the President manifest wrong in this declaration.

The conduct of the President, in sending this protest to the Senate, Mr. W. said, had been the subject of severe animadversion, and the act had been pronounced unprecedented and unauthorized. To rebut these suggestions, the Senator from Illinois (Mr. KANE) had presented a precedent from the Legislature of Pennsylvania, which was supposed strongly to support the course pursued by the President upon this occasion. The honorable Senator from Kentucky had commented upon the Pennsylvania case, and seemed to have satisfied himself that it did not go, in any degree, to support the communication of the President now before the Senate, and the request accompanying it, that it should be entered upon the Journal. Mr. W. said it would be his duty very briefly to examine the two cases, that the Senate might the better determine how far the one would justify the other. He had understood the honorable Senator to say, that the attempt was to impeach Governor McKean, then the Governor of the State of Pennsylvania, before the House of Representatives of that State, the body possessing, by the State constitution, the power of impeachment; that a committee of the House reported certain accusations against the Governor, concluding with instructions that articles of impeachment should be prepared; that a majority of the House, acting upon the report of the committee, negatived the accusations, and refused to order an impeachment; that the resolutions, by way of accusation, reported by the committee, although negatived by a majority of the House, were entered upon its Journal in the due course of the action of the House upon them; and that subsequently to the final action of the House, the Governor sent to it his defence against the accusations, which was received, and ordered to be entered upon the Journal, that the accusations and defence might remain together as matter of record for all succeeding ages. This was the Pennsylvania case, as he had understood the honorable Senator to relate it, and as he understood the facts to be. What was the case now before the Senate? No attempt had been made to im-

peach the President before the House of Representatives, the body alone possessing the constitutional power to find an impeachment against him; but the Senate, passing by the action of the House, had proceeded in a summary manner, and without impeachment or trial, to pass a sentence of condemnation against him for a high crime, not assuming to act in its judicial character, as trying an impeachment, but in its legislative character, without any practical legislative purpose. Against this sentence, thus pronounced, the President remonstrates, and sends his remonstrance to the Senate, and one of the questions before us is, Shall it be entered upon the Journal? The Senator says, the case of Governor McKean is not an authority in favor of allowing the request of the President, because, in that case, there was an unsuccessful attempt to impeach, and the majority of the body to which the protest was sent, justified the conduct of the officer; whereas, here has been no attempt to impeach, but the majority of the Senate (the judicial tribunal) have condemned without impeachment, and as a mere legislative expression. What is the force of this reasoning? Where an attempt is made to accuse a public officer, which attempt is unsuccessful, because the majority of the impeaching body think him innocent, and refuse to accuse him, the officer shall have the right to defend himself against the unsuccessful accusations, and shall be permitted to spread his defence upon the same record where the rejected accusations are to be found; but if the body, not authorized to accuse, but judicially to try an accusation, shall overstep the accusing power, and pronounce their sentence without either accusation or trial, then the officer shall not be permitted to offer his defence, or to have it made a part of that record which proclaims to the public his condemnation. Surely the Senator will not, upon more reflection, contend for so inconsistent a rule as this. In the one case the accusation is destroyed by the vote of a majority of the body to which it is submitted, and then the officer's defence is received and recorded; in the other case the sentence of guilty is entered upon its record by the judicial body, while neither accusation nor trial have preceded it, and then the defence is refused a place upon that same record. Can any one fail to see, that if the Pennsylvania case is good parliamentary authority, the case of the President, in this instance, is, in all respects, much stronger?

This, Mr. W. said, brought him to the consideration of the resolution of the Senate, and of the various changes which it had undergone between the time of its introduction and the time when the vote of the Senate was taken upon it. The honorable Senator had said that "the President had been declared by the Senate to have violated the constitution and laws, in the particulars mentioned in the resolution." Mr. W. said the remark struck him with peculiar force when it was made as it appeared to

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him to evince an unchanged purpose in the mind of the Senator, although it indicated a forgetfulness of the material difference between the resolution in its present shape, and that resolution which he had at first proposed. One of the principal complaints in the protest, and one which he, Mr. W., thought entitled to peculiar weight, grew out of these changes of the resolution; and that the force of that complaint might be accurately understood, he considered it his duty to call the attention of the Senate to what the resolution was, as introduced, to what it is, as passed, and to its progress from the one form to the other. The original resolution offered by the honorable Senator was in these words:

"Resolved, That by dismissing the late Secretary of the Treasury, because he would not, contrary to his sense of his own duty, remove the money of the United States in deposit with the Bank of the United States and its branches, in conformity with the President's opinion, and by appointing his successor to effect such removal, which has been done, the President has assumed the exercise of a power over the Treasury of the United States, not granted to him by the constitution and laws, and dangerous to the liberties of the people."

Here, Mr. W. said, specific grounds of violation were assigned. In this shape of the resolution, the President could know what acts of his were complained of. Here, when he was charged with a violation of the constitution and laws, he was told wherein the alleged violations consisted. The removal of the Secretary of the Treasury, because he declined to do a specified act, and the appointment of a successor to do that act, were the violations assigned. In this shape the resolution remained, without an intimation that it was to undergo any material change, until after the honorable Senator was in the occupation of the floor to make a final close of the debate. For full three months the debate continued, and was entirely directed to these specified acts of the President, the one side laboring to sustain the acts as constitutional and lawful, and the other side attempting, with equal perseverance, to prove them to be above and beyond the authority conferred upon the President by the constitution and the law. On the morning of the second day of the honorable Senator's closing speech, he offered the following, as a modification of the original resolution:

"Resolved, That in taking upon himself the responsibility of removing the deposits of the public money from the Bank of the United States, the President of the United States has assumed the exercise of a power over the Treasury of the United States, not granted to him by the constitution and laws, and dangerous to the liberties of the people."

Here was a departure from the point which had been debated, and a new fact assumed, upon which the condemnation of the President was to rest. This modification charges upon him the removal of the deposits, and assigns that

act as the assumption of a power "not granted to him by the constitution and laws, and dangerous to the liberties of the people." Although objectionable as assuming new ground after the debate had closed, this proposition, like the original, pointed to a specific act, and assigned that act as the violation charged. After the honorable Senator had closed his remarks, and at the moment when the question was being stated from the Chair, the modification above given was withdrawn, and the following was offered in its place, and in the place of the original resolution:

"Resolved, That the President, in the late executive proceedings in relation to the public revenue, has assumed upon himself authority and power not conferred by the constitution and laws, but in derogation of both."

No question having been taken upon the resolution, it was in the power of the mover to modify it at his pleasure, without any vote of the Senate, and, by the exercise of that right, on his part, it was made to assume the above shape; in which shape it was adopted by the Senate, as stated in the protest. Mr. W. said he considered this last modification of the resolution one of the most remarkable and indefensible steps in the proceeding of the Senate. Here the President is charged with a violation of the constitution and laws, and no act of his whatever is named as constituting the violation complained of. The President is not informed wherein his guilt consists, though he is pronounced guilty of a high crime, and no man can say what act of his was the act which, in the mind of the Senate, constituted the violation the resolution pronounces against him. "The late executive proceedings in relation to the public revenue," is the specification, while every one knows that there is not a day when "executive proceedings in relation to the public revenue" do not take place. The President, then, may justify, to the satisfaction of every man in the country, every executive act of his official life relating to the public revenue, save one, and be that act what it may, he stands condemned by this resolution, in consequence of it, of a violation of the constitution and the laws; and it will be competent for those who voted for the resolution, to assign that act in justification of their votes, even though the act itself shall never yet have been the subject of attention in the Senate. Are citizens and high public officers in this free country to be not only accused, but condemned, in this blind and general manner? Is the President of the United States, the first officer of the Government, to be thus pronounced guilty of a high crime without notice and without trial, and not to be told what acts of his life have drawn down upon him the heavy sentence? When this is done, as it has been done by the action of the Senate, is he to be denied the poor privilege of complaint, the humble satisfaction of pointing out the injustice?

TUESDAY, May 6.

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The Senate proceeded to the consideration of the resolutions offered by Mr. POINDEXTER, as modified by Mr. CLAY;

The question being on the amendment offered by Mr. BIBB—

Mr. CALHOUN said: In order to have a clear conception of the nature of the controversy, in which the Senate finds itself involved with the President, it will be necessary to pass in review the events of the last few months, which have led to it, however familiar they may be to the members of this body.

Their history may be very briefly given. It is well known to all, that the act incorporating the Bank of the United States made that institution the fiscal agent of the Government; and that, among other provisions, it directed that the public money should be deposited in its vaults. The same act vested the Secretary of the Treasury with the power of withholding the deposits, and, in the event of withholding them, required him to report his reasons to Congress. The late Secretary, on the interference of the President, refused to withhold the deposits, on the ground that satisfactory reasons could not be assigned for the act; for which the President removed him, and appointed the present incumbent in his place, expressly with a view that he should perform the act his predecessor had refused to do. He accordingly removed the deposits, and reported his reasons to Congress, and the whole transaction was thus brought up for our approval, or disapproval, entirely by the act of the Executive, without participation or agency on our part; and we were thus placed in a situation in which we were compelled to express our approbation or disapprobation of the transaction, or to shrink from the performance of an important duty. We could not hesitate. The subject was accordingly taken up, and after months of deliberation, in which the whole transaction was fully investigated and considered, and after the opinions of all sides, the friends as well as the opponents of the administration, were fully expressed, the Senate passed a resolution disapproving the reasons of the Secretary. But they were compelled to go farther. That resolution covered only a part of the transaction, and that not the most important. The Secretary was but the agent of the President in the transaction. He had been placed in the situation he occupied, expressly with a view of executing the order of the President, who had openly declared that he assumed the responsibility; and his declaration was reiterated here, in the debate, by those who are known to speak his sentiments. To omit, under these circumstances, an expression of the opinion of the Senate, in relation to this transaction, viewed as the act of the President, would have been, on the part of the Senate, a manifest dereliction of duty.

With this impression, the second resolution

was adopted. It was drawn up in the most general terms, and with great care, with the view to avoid an expression of opinion as to the motive of the Executive, and to limit the expression simply to the fact, that, in the part he had taken in the transaction, he had assumed powers neither conferred by the constitution nor the laws, but in derogation of both. It is this resolution, thus forced upon us, and thus cautiously expressed, which has so deeply offended the President; which has called forth his protest; in which he has undertaken to judge of the powers of the Senate; to assign limits in their exercise to which they may, and beyond which they shall not go; to deny their right to pass the resolution; to charge them with usurpation, and the violation of law and of the constitution in adopting it; and finally, to interpose between the Senate and their constituents, and virtually to pronounce upon the validity of the votes of some of its members, on the ground that they do not conform with the will of their constituents?

This is a brief statement of the controversy, which presents for inquiry the question, What is the real nature of the issue between the parties?—a question of the utmost magnitude, and on the just and full comprehension of which, the wisdom and propriety of our course must mainly depend.

It would be a great mistake to suppose that the issue involves the question, whether the Senate had a right to pass that resolution or not? or what is the nature and character of the resolution? or whether it be correct in point of fact or principle? or whether it was expedient to adopt it? All these are important questions, but they were fully and deliberately considered, and were finally decided by the Senate in the adoption of the resolution—finally and irrevocably decided—so that they cannot be opened for reconsideration and decision by the will of the body itself, according to the rules of its proceedings, much less on the demands of the President. No; the question is not, whether we had the right to pass the resolution? It is one of a very different character, and of much greater magnitude. It is, whether the President had a right to question our decision? This is the real question at issue—a question which goes in its consequences to all the powers of the Senate, and which involves in its recent decision the fact, whether it is a separate and independent branch of the Government, or a mere appendix of the Executive department. If the President has indeed the right to question our opinion—if we are in fact accountable to him—then all he has done has been rightfully done; then he would have the right to send us his protest; then he would have the right to judge of our powers, and to assign limits beyond which we should not pass; then he would have the right to deny our authority to pass the resolution, and to accuse us of usurpation and the violation of law and of the constitution in its adoption. But if he has

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not the right—if we are not accountable to him—then all that he has done has been wrongfully done, and his whole course, from beginning to end, in relation to this matter, would be an open and palpable violation of the constitutional rights and privileges of the Senate.

Fortunately, this very important question, which has so direct a bearing on the very existence of the Senate, as a deliberate body, is susceptible of the most certain and unquestionable solution. Under our system, all who exercise power are bound to show, when questioned, by what authority it is exercised. I deny the right of the President to question the proceedings of the Senate—utterly deny it; and I call upon his advocates and supporters on this floor to exhibit his authority; to point out the article, the section, and the clause of the constitution which contains it; to show, in a word, the express grant of the power. None other can fulfil the requirements of the constitution. I proclaim it as a truth, as an unquestionable truth, of the highest import, and heretofore not sufficiently understood, that the President has no right to exercise any implied or constructive power. I speak upon the authority of the constitution itself, which, by an express grant, has vested all the implied and constructive powers in Congress, and in Congress alone. Hear what the constitution says: Congress shall have power “to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, (those granted to Congress,) and all other powers vested by this constitution in the Government of the United States, or in any department or officer thereof.”

Comment is unnecessary—the result is inevitable. The Executive, and I may add no department, can exercise any power without express grant by the constitution or by authority of law—a most noble and wise provision, full of the most important consequences. By it, ours is made, emphatically, a constitutional and legal Government, instead of a Government controlled by the discretion or caprice of those who are appointed to administer and execute its powers. By it, our Government, instead of consisting of three independent, separate, conflicting, and hostile departments, has all its powers blended harmoniously into one, without the danger of conflict, and without destroying the separate and independent existence of the parts. Let us pause for a moment to contemplate this admirable provision, and the simple but efficient contrivance by which these happy results are secured.

It has been often said that this provision of the constitution was unnecessary; that it grew out of abundant caution to remove the possibility of a doubt as to the existence of implied or constructive powers; and that they would have existed without it, and to the full extent that they now do. They who consider this provision in this light, as mere surplusage, do great injustice to the wisdom of those who formed the constitution. I shall not deny that

implied or constructive powers would have existed, and to the full extent that they now do, without this provision; but had it been omitted, a most important question would have been left open to controversy. Where would they reside? In each department? Would each have had the right to interpret its own powers, and to assume, on its own will and responsibility, all the powers necessary to carry into effect those granted to it by the constitution? What would have been the consequence? Who can doubt that a state of perpetual and dangerous conflict between the departments would be the necessary, the inevitable result, and that the strongest would ultimately absorb all the powers of the other departments? Need I designate which is that strongest? Need I prove that the Executive, as the armed interpreter, as I said on another occasion, vested with the patronage of the Government, would ultimately become the sole expounder of the constitution? It was to avoid this dangerous conflict between the departments, and to provide most effectually against the abuses of discretionary or implied powers, that this provision has vested all the implied powers in Congress.

But, it may be asked, are they not liable to abuse in the hands of Congress? Will not the same principle of our nature which impels one department to encroach upon the other, equally impel Congress to encroach upon the Executive department? Those who framed the constitution clearly foresaw this danger, and have taken measures effectually to guard against it. With this view, the constitution has raised the President from being a mere executive officer, to a participation in the legislative functions of the Government, and has, among other legislative powers, clothed him with that of the veto, mainly with a view to protect his rights against the encroachments of Congress. In virtue of this important power, no bill can become a law till submitted for his consideration. If he approve, it becomes a law; but if he disapprove, it is returned to the House in which it originated, and cannot become a law unless passed by two-thirds of both Houses; and, in order to guard his powers against the encroachments of Congress, through all the avenues by which it can possibly be approached, the constitution expressly provides “that every order, resolution, or vote, to which the concurrence of the Senate and House of Representatives may be necessary,” (none other can pass the limits of their respective halls,) “except on a question of adjournment, shall be presented to the President of the United States, and, before the same shall take effect, shall be approved by him; or, being disapproved by him, shall be re-passed by two-thirds of the Senate and the House of Representatives, according to the rules and limitations prescribed in the case of a bill.” These provisions, with the patronage of the Executive, give ample protection to the powers of the President, against the encroachment of Congress, as experience has abundantly shown.

But here a very important question presents itself, which, when properly considered, throws a flood of light on the question under consideration. Why has the constitution limited the veto power to bills, and to the orders, votes, and resolutions, requiring the concurrence of both Houses? Why not also extend it to their separate votes, orders, or resolutions? But one answer can be given. The object is to protect the independence of the two Houses—to prevent the Executive from interfering with their proceedings, or to have any control over them, as is attempted in this protest; on the great principle which lies at the foundation of liberty, and without which it cannot be preserved, that deliberative bodies should be left without extraneous control or influence, free to express their opinions and to conduct their proceedings according to their own sense of propriety. And we find, accordingly, that the constitution has not only limited the veto to the cases requiring the concurring votes of the two Houses, but has expressly vested each House with the power of establishing its own rules of proceeding, according to its will and pleasure, without limitation or check. Within these walls, then, the Senate is the sole and absolute judge of its own powers; and, in the mode of conducting our business, and in determining how, and when, our opinions ought to be expressed, there is no other standard of right or wrong, to which an appeal can be made, but the constitution, and the rules of proceedings established under the authority of the Senate itself. And so solicitous is the constitution to secure to each House a full control over its own proceedings, and the freest and fullest expression of opinion, on all subjects, that even the majesty of the laws is relaxed to ensure a perfect freedom of debate. It is worthy of remark, that the provision of the constitution which I have cited, in vesting in Congress the implied or constructive powers, is so worded as not to comprehend the discretionary powers of the two Houses, in determining the rules of their proceedings, which, of course, places them beyond the interference of Congress itself.

Let us now cast our eyes back, in order that we may comprehend, at a single glance, the admirable arrangements by which the harmony of the Government is secured, without impairing the separate existence and independence of the parts. In order to prevent the conflicts which would have resulted, necessarily, if each department had been left to construe its own powers, all the implied or constructive powers are vested in Congress; that Congress should not, through its implied powers, encroach upon the Executive department, (I omit the Judiciary as not belonging to the question,) the President is clothed with the veto power; and that his veto should not interfere with the rights of the two Houses to control their respective proceedings, it is limited to bills, or votes that require the concurrence of the two Houses. It is thus that our walls are interposed to protect the

rights which belong to us, as a separate constituent member of the Government, from the encroachments of the Executive power; and it is thus that the power which is placed in his hands, as a shield to protect him against the implied or constructive powers of Congress, is prevented from being converted into a sword to attack the rights which are exclusively vested in the two Houses.

Having now established, beyond controversy, that the President has no implied or constructive power; that he has no authority to exercise any right not expressly granted to him by the constitution, or vested in him by law; and that the constitution has secured to the Senate the sole right of regulating its own proceedings, free from all interference; the fabric reared by this paper, and which rests upon the opposite basis, presupposing the right to the fullest and boldest assumption of discretionary powers, on the part of the President, falls prostrate in the dust.

With these views, it will not be expected that I should waste the time of the Senate in examining its contents; but if additional proof were necessary to confirm the truth of my remarks, and to show how strong would have been the tendency to conflict, and how dangerous it would have been to have let the several departments in possession of the right to exercise implied powers at their pleasure, this paper would afford the strongest. In illustration of the correctness of this assertion, I will select two or three of its leading positions, which will show what feeble barriers reason or regard to consistency would be to prevent conflict between the departments, or to protect the Legislative from the Executive branch of the Government, and how regardless the President is of consistency or reason, where the object is the advancement of the powers of his department.

The advocates of the President could not but feel the glaring inconsistency and absurdity of his course; and, in order to reconcile his conduct with the principles that he laid down, asserted, in the discussion, that he sent his protest, not as President of the United States, but in his individual character, as Andrew Jackson. We may assert any thing—that black is white, or that white is black. Every page, every line of this paper, contradicts the assertion. He, throughout, speaks in his official character, as President of the United States, and regards the supposed injury that has been done him, as an injury to him, not in his private, but in his official character. But the explanation only removes the difficulty one step further back. I would ask, what right has the President of the United States to divest himself of his official character, in a question between him and this body, touching his official conduct? Where is his authority to descend from his high station, in order to defend himself, as a mere private individual, in what relates to him in his public character?

But, the part of this paper which is the most

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and conduct of the Senators re-

er asked for the yeas and nays
ent, and they were ordered.

moved to amend the original
adding the two following resolu-

at the President of the United
to send a protest to the Senate
proceedings.
the Senate do not receive the
ident."

passed between Mr. FORSYTH,
Mr. KING, and Mr. CALHOUN,
of order, as Mr. FORSYTH's pro-
ding. Mr. CALHOUN stated that
thing of a rule of the Senate,
motion to strike out the words
should be received, was, that
might be made as perfect as pos-
sible. Mr. FORSYTH finally withdrew his amend-
ment, to allow the question to
be decided on the resolutions of Mr. CALHOUN.

Yeas were then ordered on the
proposed by Mr. CALHOUN.

Mr. CALHOUN said he concurred with the Sen-
ator from North Carolina, (Mr. CALHOUN,) that
an official message from the Presi-
dent of the United States—in some sort per-
petrating every paper must be that was
the official officer, to defend himself on a
charge regarding his duty, his personal
conduct in such charge necessarily in-
ferred as an official communica-
tion, a coordinate department of the Gov-
ernment, with unfeigned surprise that
the pertinacity of members in thus
raising the question whether the
protest should be received or not.
It was as an ordinary petition or me-
morial, and was never in the hands
of the Senate until it was formally received. A
rule presents a memorial in
its contents, and if no objection
is received. If objection is made,
the Senate is taken—the memorial
is not received. If the Senate agrees to receive it,
the Senator who offered it. How
can a message from the President
of Congress, or from one branch
of the Government, be presented to the other? The Secretary
of the House presents him-
self, and says, "I am directed to lay before
the House a message in writing," &c. It is laid
before the House, and it is beyond the control of the
Senate—without our permis-
sion it is withdrawn; it lies on the table
in our possession, before and af-
terwards. Whatever may be its contents,
we are to receive it, without acting
upon our right to examine the pa-
per upon its character before it is
received, when passion, or reason, or
policy, to refuse to receive a message
is presented, what becomes of the rights

of the President and the two Houses, in their intercourse with the Executive and with each other? A bill is sent to the President. He returns it with his veto—examining freely the powers of Congress, and placing his refusal to pass the bill on the ground of want of constitutional power in the Federal Government to legislate on the subject of it—speaks freely or harshly of usurpations of powers—and can we or the House of Representatives refuse to receive it? What becomes of the bill? It is a law, if not returned to the House where it originates, in ten days. The message and returned bill are not on file or on the Journals of either House; no record of the veto, where alone it can or ought to be looked for, is on the Journals of the House where the bill originated.

TUESDAY, May 6.

Vote on the Question of Receiving the President's Protest.

The question was taken on the first resolution, and decided in the affirmative, as follows:

YEAS.—Messrs. Bell, Bibb, Black, Calhoun, Clay, Clayton, Ewing, Frelinghuysen, Kent, Knight, Leigh, Naudain, Poindexter, Porter, Prentiss, Preston, Robbins, Silsbee, Smith, Sprague, Swift, Tomlinson, Tyler, Waggaman, Webster—25.

NAYS.—Messrs. Benton, Brown, Forsyth, Grundy, Hendricks, Hill, Kane, King of Alabama, King of Georgia, Linn, McKean, Shepley, Tallmadge, Tipton, White, Wilkins, Wright—17.

The question was then taken on the second resolution of Mr. CALHOUN, and decided in the negative, as follows:

YEAS.—Messrs. Calhoun, Clayton, Ewing, Leigh, Naudain, Poindexter, Robbins—7.

NAYS.—Messrs. Bell, Benton, Black, Brown, Clay, Forsyth, Frelinghuysen, Hendricks, Hill, Kane, Kent, King of Alabama, King of Georgia, Linn, Moore, Porter, Prentiss, Preston, Shepley, Silsbee, Smith, Swift, Sprague, Tallmadge, Tipton, Tomlinson, Tyler, Webster, White, Wilkins, Wright—34.

Mr. FORSYTH then moved his amendment, and asked for the yeas and nays on the question—which were ordered.

Mr. F. said that, considering this document was entirely defensive in its character, he thought it proper to send it to the Legislatures of the States, and his object was to give the opportunity.

The question was taken on the amendment of Mr. FORSYTH, and decided in the negative, as follows:

YEAS.—Messrs. Benton, Brown, Forsyth, Grundy, Hendricks, Hill, Kane, King of Alabama, King of Georgia, Linn, McKean, Shepley, Tallmadge, Tipton, White, Wilkins, Wright—17.

NAYS.—Messrs. Bell, Bibb, Black, Calhoun, Clay, Clayton, Ewing, Frelinghuysen, Kent, Knight, Leigh, Moore, Naudain, Poindexter, Porter, Prentiss, Preston, Robbins, Silsbee, Smith, Sprague, Swift, Tomlinson, Tyler, Webster—25.

WEDNESDAY, May 7.

President's Protest.

On motion of Mr. FRELINGHUYSEN, the Senate proceeded to the consideration of the resolutions of Mr. POINDEXTER, as modified by Mr. CLAY and Mr. CALHOUN.

[Mr. Webster delivered an extended argument in favor of adopting the four resolutions, which argument necessarily covered ground previously trod by himself and others, and concluded with a recapitulation of the heads and substance of his speech which presented the whole in a condensed, pointed, and impressive manner. The following was his recapitulation:]

I will now, sir, ask leave to recapitulate the general doctrines of this protest, and to present them together. They are:

That neither branch of the Legislature can take up, or consider, for the purpose of censure, any official act of the President, without a view to legislation or impeachment;

That not only the passage, but the discussion of the resolution of the Senate of the 28th of March, was unauthorized by the constitution, and repugnant to its provisions;

That the custody of the public treasury always must be intrusted to the Executive; that Congress cannot take it out of his hands, nor place it anywhere, except with such superintendents and keepers as are appointed by him, responsible to him, and removable at his will;

That the whole Executive power is in the President, and that, therefore, the duty of defending the integrity of the constitution results to him from the very nature of his office; and that the founders of our republic have attested their sense of the importance of this duty, and, by expressing it in his official oath, have given to it peculiar solemnity and force;

That as he is to take care that the laws be faithfully executed, he is thereby made responsible for the entire action of the Executive department, with power of appointing, overseeing, and controlling those who execute the laws;

That the power of removal from office, like that of appointment, is an original Executive power, and is left in his hands, unchecked by the constitution, except in the case of judges; that, being responsible for the exercise of the whole Executive power, he has a right to employ agents of his own choice, to assist him in the performance of his duties, and to discharge them when he is no longer willing to be responsible for their acts;

That the secretaries are his secretaries, and all persons appointed to offices created by law, except the judges, his agents, responsible to him, and removable at his pleasure;

And, finally, that he is the direct representative of the American people.

These, sir, are some of the leading proposi-

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tions contained in the protest; and if they be true, then the Government under which we live is an elective monarchy. It is not yet absolute, there are yet some checks and limitations in the constitution and laws; but in its essential and prevailing character, it is an elective monarchy.

Mr. President, I have spoken freely of his protest, and of the doctrines which it advances; but I have said nothing which I do not believe. On these high questions of constitutional law, respect for my own character, as well as a solemn and profound sense of duty, restrains me from giving utterance to a single sentiment which does not flow from entire conviction. I feel that I am not wrong. I feel that an inborn and inbred love of constitutional liberty, and some study of our political institutions, have not, on this occasion, misled me. But I have desired to say nothing that should give pain to the Chief Magistrate, personally. I have not sought to fix arrows in his breast; but I believe him mistaken, altogether mistaken, in the sentiments which he has expressed; and I must concur with others in placing on the records of the Senate my disapprobation of those sentiments. On a vote which is to remain so long as any proceeding of the Senate shall last, and on a question which can never cease to be important while the constitution of the country endures, I have desired to make public my reasons. They will now be known, and I submit them to the judgment of the present and after times. Sir, the occasion is full of interest. It cannot pass off without leaving strong impressions on the character of public men. A collision has taken place, which I could have most anxiously wished to avoid; but it was not to be shunned. We have not sought this controversy; it has met us, and been forced upon us. In my judgment, the law has been disregarded, and the constitution transgressed; the fortress of liberty has been assaulted, and circumstances have placed the Senate in the breach; and, although we may perish in it, I know we shall not fly from it. But I am fearless of consequences. We shall hold on, sir, and hold out, till the people themselves come to its defence. We shall raise the alarm, and maintain the post, till they whose right it is, shall decide whether the Senate be a faction, wantonly resisting lawful power, or whether it be opposing, with firmness and patriotism, violations of liberty, and inroads upon the constitution.

Mr. BENTON said: The attack upon the President, so indecently and illegally commenced at the beginning of the session, now draws to a close, and approaches its termination. The protracted discussion expires under its own length: all the defenders of the Senate have been heard; the case is ready to go before the people, and to be handed down to posterity, and to receive from the ultimate arbiter of human actions—an impartial public—the final sentence of condemnation or approval to which

it is entitled. And how does the case stand on the part of the Senate? How does the Senate appear? Naked, defenceless, unjustified, and unjustifiable! Stripped to the shirt, like the Roman Consuls in the Caudine Forks! and without denial or palliation for the most flagrant breach of the constitution, and the most scandalous disregard of decency, which the history of faction and the annals of cabal has ever exhibited to an outraged community, in any age, or in any country.

What is it, said Mr. B., that the Senate has done? What act of theirs has had the novel effect to place this high body at the bar of the public to throw it into a deep and deadly breach, and to make it cry out for succor and for safety? What act has the Senate done to produce this strange vicissitude in its fortunes, to work this wonderful metamorphosis on its own dignity and station? What has it done to effect all this? Let facts, and an impartial country, respond to the inquiry! All America knows that, when the deposits were removed last fall, the whole newspaper interest connected with the United States Bank immediately proclaimed a violation of the constitution and of the laws, and demanded the impeachment of the President. The impeachment was not only demanded, but foretold and asserted. The House of Representatives was appealed to; their duty to prefer the impeachment was incessantly urged; their intention to do so was openly affirmed; and so far was the process carried, of preparing the public mind for the event, that the names of the members who were to move it, and of the witnesses who were to attend the trial, were exultingly and ostentatiously paraded in the presses of the bank! All this took place in the months of October and November, and took place too recently and too notoriously to brook contradiction, or to require corroboration on this floor. And thus, for two months before Congress assembled, and to the full extent that bank intelligence and bank publications could go, the public mind was warned and prepared to witness an attempt to get up a formal impeachment against President Jackson, as soon as Congress met. The dismissal of Mr. Duane, because he would not give the order for the removal of the deposits; the appointment of Mr. Taney to give that order, and the consequent exercise of illegal and unconstitutional power over the Treasury of the United States, which was held to be the Bank of the United States, were the notorious and proclaimed grounds for demanding the contemplated impeachment. Congress meets on the third day of December; day after day, and week after week, passes away, and no member is found to rise in his place to move the impeachment which the bank presses had so openly demanded and so confidently foretold. No member of the House rises in his place to commence that proceeding, which under the constitution of the country, could only commence in the House of Representatives, the im-

mediate organ of the people's grievances, as well as of the people's rights, and appropriately styled the grand inquest of the nation. No member of that body rises in his place to obey the impulsion of the bank, to avenge its cause, to verify its proclamation, and to move the impeachment of the President. In a body of two hundred and forty-eight members, many of them young, many warm, impetuous, daring, none could be found to minister to the vengeance of the bank, and to redeem the pledge for which that institution stood committed in the face of the country. * * * * * The impeachment could not be commenced in the House of Representatives! What next? It is actually commenced in the Senate! On the 26th day of December—just three weeks after Congress had met—and when the whole subject of the finances, the treasury, and the bank, had been referred to the Finance Committee, to originate the legislative measures which the case might require, a resolution is laid upon the table of the Senate, by a member of that body, to condemn the President for the identical acts for which the bank presses had foretold, and demanded his impeachment.

The resolution is laid upon the table, without any legislative object; for the legislative inquiry had already gone to the appropriate committee. It is laid upon the table by a member of the Senate; a speech in the style and temper of the most relentless criminal prosecution, such as the civilization of the age does not admit against the greatest offenders, is prolonged for three days upon it; a debate of the same character rages for three months; the resolution is then three times altered by the mover in the face of the Senate, and a vote is taken upon it, defined by an exact party line, finding the President guilty of a violation of the laws and the constitution, and actually condemning him, without trial, for the commission of an impeachable offence, and that by the very body which could neither begin an impeachment nor decline the trial of one when regularly brought before them. The act of the Senate being finished and consummated, their sentence of condemnation being pronounced—the President, for the first time, breaks silence, and lifts his voice in a proceeding so extraordinary in its nature, and so unjust in its consequences to himself. He sends in his protest! A calm and dignified remonstrance, an impressive and temperate appeal against the injustice that has been done him. In this protest he has taken his stand upon clear, constitutional law—upon the first principles of criminal justice—that the Senate, being his judges, had no right to pre-judge his case, and to pronounce him guilty without trial or hearing. This is the ground taken by the President; and what is the answer, the defence, the justification of the Senate! Not a response to the accusation, not a reply to the charge, not a defence for usurping jurisdiction, exercising extrajudicial power, and conducting an *ex parte* proceeding, but clouds

of new charges, volleys of new epithets, and torrents of new invective; with an affected cry of danger, and standing in the breach; as if public attention could be drawn off from the true point in dispute—from the examination of the Senate's conduct—by mere dint of clamor, by reckless accumulation of fresh accusation, by distortion and perversion of every word in the protest, and by pursuing the President, like a constable's posse, with one incessant uproar, as if engaged in the hue-and-cry pursuit of a fugitive from justice. No, sir, said Mr. B., this is not the business now in hand. The present question is to examine into the constitutionality of the Senate's proceeding against the President, and not to try the President over again upon the old accusation, or to eke out stale charges with new aggravations. The Senate has judged the President, and the country will now judge the Senate. Our present occupation is the defence of the Senate; and what is that defence, stripped of all additions and glosses, and reduced to its point and essence? What is that defence, now that all the defenders have been heard; when the last advocate has spoken, and the case is ready for submission to the judgment of the people? What is this defence! Sir, it is nothing more nor less than a refuge under a subterfuge—a flight from every thing like defence—and a palpable confession that no defence can be made; for the whole excuse of the Senate rests upon a solitary assumption, which every speaker has made, and which assumption is neither true in fact nor material in law. It rests upon the assumption that the motives of the President were not impugned! that wicked, corrupt, and criminal intentions were not imputed to him! This is the sum total of the defence. "The resolution is silent as to the motive," says one, (Mr. CLAY.) "It carefully abstains from the imputation of a criminal intent," says another, (Mr. LEE.) "It imputes no crime; it charges no corrupt motive; it proposes no punishment," says a third, (Mr. WEBSTER.) Here, then, said Mr. B., is the whole point and power of the defence. Its concentrated essence lies in the allegation, that criminal intentions are not imputed to the President.

Upon this defence Mr. B. took two distinct and separate issues: first, that it was not true, in point of fact; and secondly, that if true, it was not material in point of law. In discussing the first of these issues, he said he should not commit the folly of confining himself to the words which were inserted in the resolution, especially as altered, and altered for the third time, in the face of the Senate, and the last hour of the debate.

He must be permitted to believe, and to maintain, that the omission to charge a criminal intent, and especially its careful and studied omission, operated nothing in favor of the Senate, but the contrary. The averment, though not in the resolution in words, was nevertheless effectually there by implication; and, what

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is infinitely more, it was evidently in the hearts, and notoriously in the speeches, of all the members who supported the resolution. The charge was, therefore, in the bosoms of the judges; it was in their pleadings; it was promulgated in their speeches, even in all those delivered on the distress memorials, as on the formal resolution. Even now, within this hour, in the hearing of all present, the last speaker on the side of the Senate (Mr. WENSTER) has openly said, that President Jackson's conduct, in assuming and sanctioning Mr. Taney's appointment of a salaried officer to superintend the deposit banks—(which appointment Mr. Taney never made!)—that such conduct of a President, in the time of Washington and Jefferson, could not have passed a week before it became the foundation for an impeachment. After this, what merit can there be in saying that evil intentions are not charged on the record? The injury to the President is the same, whether in the record or not; for being a man of sound mind, he is presumed to act with intentions, and to violate the law and the constitution with bad intentions, if he violates them at all. Having sworn to support them, the breach of the oath involves perjury. To the Senate the consequence is the same, whether the evil intention is retained in the heart, spread upon the record, or proclaimed in the speeches of the Senators: in either case they pass upon the guilt and innocence of the accused; and become disqualified, upon every principle of honor and decency, for the office of judge, in the event that a regular impeachment for the same offence should afterwards be preferred. Surely those Senators who have thus spoken, and thus impugned the motives of the President, can never be impartial judges, although their recorded opinion, upon the passage of the resolution, is limited to the fact of violated law and constitution. Resting upon the notoriety of the speeches daily delivered on the floor of the Senate—widely diffused over the country in pamphlets and newspapers; pressed into the hands of all readers, and stuck up in taverns, steamboats, and barbers' shops, to rouse the people against the President, and to render him odious—relying upon the speeches, thus pressed into notice, replete with every violent epithet, crammed with every odious comparison—Cæsar, Nero, Caligula, Cromwell, Bonaparte, and the infatuated Stuarts; and referring to every lawyer's knowledge, that the law presumes the bad intention for every illegal act, he (Mr. B.) would go no further for evidence to prove his first issue, that the Senate's defence was not true in point of fact.

But he meant to take and to maintain, his great stand upon the second issue, that the omission of the averment of the criminal intent was not material in point of law; that the resolution was the same without the averment as with it; and that the infraction of the constitution, the wrong to the President, the subversion of all the rights of the accused, the inva-

sion of the privileges of the House of Representatives, and the misconduct of the Senate, were just as complete and just as flagrant, in the adoption of the resolution, as finally modified and passed, as it would have been if passed in the form it first wore, or if stuffed and distended with all the tautologous averments of wicked intentions and corrupt motives—"moved and seduced by the instigation of the devil, and not having the fear of God before his eyes"—which are to be found in the black-letter editions of common law indictments.

Briefly recapitulating what had been said by other Senators opposed to the resolution, and especially from his old friend from Tennessee, (Mr. GAUNDRY,) whose skill as a criminal lawyer he had been almost amused to see called in question; briefly adverting to the high and clear ground taken by these Senators; first, that the criminal intent was always presumed by the law when the illegal act was proved; and, secondly, that the Senate's resolution was not an indictment, but a judgment; not the preferment, but the conclusion, of an impeachment; and that judgments never recited intentions; grounds which Mr. B. undertook to affirm entirely upset the defence of the Senate. Leaving all these solid considerations where others had placed them, he would proceed to a new point in the case—to a new reason for the immateriality of criminal averments in prosecutions of impeachments. And upon this new ground would strip the Senate's defence of the last disguise, and leave their resolution ready for the sponge of obliteration, and ripe for the knife of expurgation, the moment the representation in the Senate should be brought into harmony and concord with the feelings and sentiments of the people.

Entering upon the examination of this new point, Mr. B. first called the attention of the Senate to the nature of an impeachment under the Constitution of the United States, and wherein it differed from an impeachment in England; while impeachments in both countries essentially differed from prosecutions on indictments. The difference, he said, was marked and essential, and exercised a decided influence over the whole proceeding. In the United States, the sentence upon conviction on impeachment, extended only to a removal from office, and a disqualification for holding future office, with an express liability in the person thus removed and disqualified, to a prosecution upon indictment, and judgment and punishment upon that indictment, for the same offence, according to the law of the land, in the same manner as if no impeachment had taken place. Thus, the effect of conviction upon an impeachment in the United States was purely preventive—purely to prevent further crime—to prevent the same person from acting longer in a station in which his actions were hurtful to the community; while punishment, if any, was left to flow from the ordinary tribunals, and where the trial by jury was a safeguard to the life and

liberty and property of the innocent. In the eye of the American constitution, there is no punishment following impeachment; for removal from office is not regarded as punishment, which must follow from the indictment, if necessary, and be superadded to the removal and disqualification; which could not be if the removal from office, either in law or in fact, was punishment; for no man can be twice punished for the same offence. In England, on the contrary, the sentence on conviction under impeachment extends to legal and actual punishment, to punishment in person and in property; for the party may be both fined and imprisoned. On indictments, as everybody knows, both in England and America, the direct object of the prosecution is punishment—punishment in life, limb, person, or property; and preventive justice is only an incident, resulting from conviction for crimes, which presumes too much depravity to admit of further trust or confidence in the offender. Whenever, then, punishment would follow conviction, whether on indictment or impeachment—whenever the life or limb of the party was to be touched—whenever his body might be cast into prison, or his property taken by fine or forfeiture—in every such case, the *quo animo*, the state of the mind, the criminal intent, was of the essence of the offence; and must be duly averred, and fully proved, or clearly inferrible from the nature of the act done; but, in the case of impeachment under the Constitution of the United States, where the sentence could extend no further than merely to prevent the party from using his power to do further mischief, leaving him subject to a future indictment, then the intent of the party, whether good or bad, charitable or wicked, became wholly immaterial; not necessary to be alleged, nor requiring to be proved, or to be inferred, if the allegation should chance to be made. Every averment relative to the intention would be surplusage; for the mischief to the public was the same, whether a public functionary should violate the law from weakness or wickedness, from folly or from design. In either case the injury to the community was the same; the unfitness of the party to remain in office was the same; the inducement to remove him the same; and, in both cases, the removal would be effected by impeachment; the community would be protected from further injury by the sentence under impeachment; and the offending party, if deserving punishment, would be turned over to the ordinary tribunals, and to all the technicalities and formalities of a jury trial, upon indictment, to receive that punishment.

Young as the United States were, Mr. B. said, brief and scanty as their history, and especially their criminal history, yet was, still the history of these States already afforded ample illustrations of the truth of the positions which he had taken relative to impeachments under the constitution of the Union. It afforded examples of two impeachments tried before the

Senate, in one of which there could be no corrupt or wicked intention, for the party was insane, and therefore incapable both in law and in fact, of being either corrupt or wicked; and in another, of which a mere naked violation of law was charged, without the slightest reference to the intentions, or *quo animo* of the party; he alluded to the cases of the Judges Pickering and Chase. Mr. B. then went into a statement of the impeachment of these two judges, to sustain the view he had been taking, and to apply historical facts and judicial decisions to the legal doctrines which he had laid down. Judge Pickering, a district judge of the United States for the State of New Hampshire, was impeached for acts of flagrant illegality, and which, in truth, implied great wickedness. The articles of impeachment charged wicked and corrupt intentions; yet it was proved that he was incapable in law, or in fact, of wickedness or corruption; for he was utterly insane, both at the time of committing the acts, and at the time he was tried for them; and could not, and did not, appear before the Senate to make any defence. His unfortunate condition was proved and admitted, and the Senate was moved, by counsel, to stop the proceedings against him, and to remit or postpone the trial; but the Senate took the clear distinction between a proceeding which could only go to a removal from office and a disqualification for holding office, and a prosecution which might involve a criminal punishment; and they proceeded with the trial, heard the evidence, found the illegal acts to have been committed, and pronounced the sentence which the good of the community required, and which the unfortunate judge was a proper subject to receive—that of removal from office. They did not add a sentence of disqualification for holding future offices; for he might again recover his understanding, and become a useful citizen. The Senate limited itself to a sentence which the good of the community demanded—which was applicable to misfortune and not to criminality—which was suited to the acts of the judge, and not to his intentions; a sentence which virtually acquitted him of evil intentions; for the acts were of such a nature as to have required, if committed by a person of sound mind; not only disqualification for future office, but prosecution, and punishment upon indictment. Mr. B. relied upon this case as one of the strongest which history could present, or imagination could conceive, to show the immateriality of criminal intentions to support impeachments under the Constitution of the United States. It was a stronger case than it would have been if corrupt and wicked intentions had not been charged; for being charged, and then disproved, it was a positive decision of the Senate upon the total immateriality of the allegation; it was a clear declaration that the averment was surplusage, and that an officer should be impeached, and removed from office, for illegal acts alone, without the least reference to his intentions,

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and even in the face of the fact that he was incapable of legal volition, and therefore, could have no intentions in the eye of the law.

The case of Judge Chase, Mr. B. said, was a case of a different kind, to prove the same point: it was a case with, or without, averments of criminal intentions. Judge Chase was impeached upon eight articles; five of them charged corrupt and wicked intentions; three charged no intentions at all; being wholly silent upon the question of motives, and merely alleging the commission of the acts, and the violation of the law. The three articles, thus silent on the question of motives, were distinct and substantive articles in themselves, not variations of the other articles, but containing new and distinct charges; and, therefore, to stand or fall upon their own merits, without being helped out by a reference to the same charges in another form, in another part of the proceedings. They were the articles first, fourth, and fifth. Mr. B. would state them particularly; for, if the least doubt remained on the mind of any one, after seeing the case of Judge Pickering, the tenor of these three articles in the impeachment of Judge Chase would entirely remove and dispel that doubt. The first of these articles, which is No. 1 in the impeachment, relates to the trial of Fries, at Philadelphia, and charged the judge with three specific instances of misconduct in conducting that trial; and concluded them with the allegation, that they were "dangerous to our liberties," and "in violation of law and justice," but without the slightest reference to the *quo animo* of the judge, or the state of mind in which the acts were done. The article is wholly silent with respect to his intentions. The fourth article contains four specifications of misconduct; all charged to have occurred on the trial of Callender, in Richmond, and alleged them to be "subversive of justice," and "disgraceful to the character of a judge;" but were wholly silent as to the intentions of the judge, and left the *quo animo* with which he did the acts entirely out of the record. The fifth article charged a specific and single violation of law in ordering the arrest of Callender upon a *capias*, instead of directing him to be called in upon a summons; but without imputing any motive or intention whatever, good or bad, to the judge, for preferring the *capias* to the summons. The only averment is, "that Callender was arrested, and committed to close custody, contrary to law, in that case made and provided." Such were the three articles, said Mr. B., which charged violations of law upon Judge Chase, without imputing criminal intentions or corrupt motives to him; and upon which the judge was as fully tried, and made as ample a defence, both upon the law and the facts, as he did upon the five other articles, which contained the ordinary averments of wicked and corrupt intentions. Neither the learned judge himself, nor any one of his counsel, numerous and eminent as they were, made the least distinction between the

articles which charged, and the articles which did not charge, corrupt intentions. They went to trial upon the whole alike; put in no demurrers; made no motions to quash; reserved no points; and defended the whole upon the law and the facts of each separate case. This, said Mr. B., should exterminate doubt, and silence cavil. It is the decision of the managers, and they were eminent lawyers and profound statesmen!—it was the decision of the managers who prepared the articles of impeachment—the decision of the House which preferred them—the decision of the Senate who tried them—and the admission of the learned judge who was tried upon them, and of the able counsel who conducted his defence, that the *quo animo* averment, the allegation of wicked intentions, was entirely immaterial in an article of impeachment under the Constitution of the United States.

Mr. B. made an apology, or rather stated his justification to the Senate, for having gone so minutely into the cases of the Judges Pickering and Chase. He had done so from a sense of duty to the President and to the country, and to prevent the law of the land from being borne down by the weight of names, and the array of authority. Many Senators had taken their stand upon the legal position, that these proceedings against the President are not tantamount to impeachment, because the resolution does not contain the formal allegation of corrupt or wicked intentions. Two, at least, of the Senators, (Messrs. WEBSTER and LEIGH,) thus staking themselves upon this legal position, were eminent lawyers, and possessed high and deserved reputation as jurists. Their opinions, if left uncontroverted, if not completely overthrown, could not but have great weight in the country. It was necessary to encounter the high authority of their opinions, with the still higher authority of adjudged cases; and this was most effectually and thoroughly done in the production and application of the two impeachment cases of Judge Pickering and Judge Chase, in which the solemn judgments of two full Senates, and the acquiescence of all concerned, were set in opposition to the solitary opinions of individual Senators: and thus the sole ground on which the defence of the Senate rested, was swept from under their feet, and expunged from the face of the earth.

Mr. B. having fully encountered, and, as he trusted and believed, entirely overthrown the whole defence set up by the Senate, would now extend his view to some auxiliary considerations, and examine the propriety and decorum of the Senate's conduct in adopting a resolution of this character against the President.

The Senate is composed of individuals, said Mr. B., some of whom aspire to the occupation of the place which President Jackson now holds, others of whom have contended with him for that place, and have been left by the people—*longo sed proximo intervallo*—at a long interval behind; and others, again, who, having real or fancied grievances to complain of, appear

before the public as his implacable enemies and incontinent revilers. From all such Senators the laws of honor, a sense of decorum, respect for public opinion, and a due regard to the sanctity of public justice, would require a rigorous impartiality in the discharge of an acknowledged duty, and a punctilious refusal to engage in any proceeding which involved the assumption of gratuitous powers, or required the discharge of invidious offices. It was a case even in which the refusal of many Senators to sit in judgment, although a regular impeachment had been brought in, might have attracted the admiration, and commanded the applause, of all honorable men. This impartiality—this abstinence—this refusal to sit in judgment, had not been witnessed on this occasion; on the contrary, there had been witnessed an eagerness and promptitude in volunteering for attack; a violence and personality in carrying it on; a grossness and turbulence of invective; a readiness to draw inferences without warrant, and to impute charges without evidence, which was never before exhibited in any American assembly—which has no parallel in England, since the time that Jeffries rode the Western circuit, nor in France, except in the days of the existence of the revolutionary tribunal—which cannot be tolerated in any country where civilization has advanced far enough to require competitors for high office, in becoming adversaries, to remain gentlemen; and which, on this occasion, has presented the American Senate, and that in reference to the American President, as sitting for the picture which General Hamilton, in the *Federalist*, has drawn of a heated and factious assembly, borne away by envy and hatred, running down an envied political adversary upon groundless accusations! in which passion furnished charges; animosity supplied proof; the cunning found tools; and the decision was regulated, not by the guilt, or innocence, of the accused person, but by the strength and numbers of the accusing party.

Continuing his remarks upon the indelicacy and indecorum of the Senate's conduct towards the President, Mr. B. said that Senators were the constitutional judges of the President, selected by that instrument to sit upon him, and, therefore, could not be challenged or set aside for ill will or prejudice towards him. They were not like jurors, to be set aside *propter affectum, propter defectum*; and, therefore, should be the more delicate and scrupulous in abstaining from all pre-occupation and judgment against him. If called to sit upon the trial of a person to whom they were inimical, the question was in their own breasts to sit or retire. Withdrawal was certainly the commendable course; and the Senate had witnessed one instance, at least, of that conduct, and that within a few years past; but the example did not seem to threaten, at present, to become contagious.

The refusal, or omission, of the House of

Representatives to impeach the President, the failure of any member of the House to move against him, was next relied upon by Mr. B. as an aggravation of the Senate's conduct in usurping the function of the House; although, by an infatuated perversity of logic, that omission of the House was expressly relied upon by one of the Senators, (Mr. CLAY,) as a reason for the Senate to assume their office. No member from the House of Representatives, fresh from the ranks of the people—no member of that body, constituting the grand inquest of the nation, and exclusively charged with the origination of impeachments—no such member could be induced, or stimulated, to follow the lead of the bank press, and to prefer charges against President Jackson for violations of the law and constitution in dismissing Mr. Duane, because he would not give the order for removing the public deposits; in appointing Mr. Taney to give the order; and in assuming the exercise of ungranted power over the Treasury of the United States, which was alleged to be the Bank of the United States. No member of the House could be found to make such a motion; and it was left for the Senate, by an extra-judicial and *ex parte* impeachment, to usurp an office which the appropriate organ would not exercise; and thus to aggravate, by contrast, a proceeding wholly unconstitutional in itself, and sufficiently odious in all its attendant circumstances.

The variations which the resolution had undergone at the hands of its author, since it had been first introduced, was the next aggravation which Mr. B. pointed out. When first introduced it covered the very points which the bank press had indicated, and was couched in the very words which they had used in demanding the impeachment of the President; and, in addition to that, contained the precise criminal averment which is usually found in impeachments for public offences, and which was actually contained in the first article of the impeachment against Judge Chase—"dangerous to the liberties of the people!" The first form contained three specifications of violated law and constitution, to wit, dismissing Mr. Duane, appointing Mr. Taney, and exercising ungranted power over the Treasury of the United States, with an averment that all this was dangerous to the liberties of the people. The next shape it assumed left out the specifications on the subject of dismissing Mr. Duane and appointing Mr. Taney, but retained the clause about exercising ungranted power over the Treasury, and the danger to the liberties of the people! The third metamorphosis of this most flexible and pliant resolution, left out all the specifications, and even the concluding averment of "dangerous to the liberties of the people!" and assumed a shape—"if shape it can be called, which shape has none," of such vagueness and generality, such studied ambiguity and duplicity of signification, such total independence of facts, date, and circumstances,

a date, or a circumstance, or a
any one act, on which an issue

Why all this? Sir, said Mr.
the wherefore of all this was
or less than this: that no ma-
found in the Senate (and that
ths' drumming and drilling) to
dismissal of Mr. Duane was a
laws and constitution; no ma-
found to vote that the appoint-
ney was a violation of the laws
; no majority could be found
e President had exercised un-
ver the Treasury of the United
prity could be found to vote
e any thing that was dangerous
of the people; no majority could
e that the Bank of the United
Treasury of the United States;
that Treasury, and by assuming
city of recommending the re-
public moneys from that Treasury,
lication was predicted, of having
anted powers over the Treasury
States. No such majority could
is chamber; but a majority was
a general charge over his head,
ty and faction might fill up and
pleased; but which contained no
ay one illegal act whatever. It
stood that this general charge
ived by the public, (which has
ior time to examine such things
as the full conviction of that
rate of all that was laid to his
erst and second resolutions, and
nfaronade about "seizing the
d uniting "the sword and the
was bruited in the speeches
upport. Every speech made was
specifications in the first and
ons; and these being abandoned,
could share the same fate. But
own that the case would be other-
speeches would stand, and the
the first and in the second res-
be considered as adopted; and
nd deceived multitudes would go
maintaining, and promulgating,
statements which the opposition
e give up, abandon, and surren-
s, in the full face of the whole

a nearer view of the resolution,
ed for the third time, and adopt-
e. He did so to show its stud-
its total want of certainty, and
m of one visible or tangible point,
r fact, on which an issue could
Late executive proceedings."
are three words, and three am-
Late. How late? When? at
is year? last year? or the year
ecutive. Which part of the ex-
Presidential, or the depart-
t of the President, or the act of

Mr. Taney? 8. Proceedings. Which of them? what proceedings? The dismissal of Mr. Duane? the appointment of Mr. Taney? the cabinet opinion? or the exercise of ungranted power over the Treasury? "In relation to the public revenue." What part of the revenue? That which is in bond, or in the hands of the collectors? or in the deposit banks, or in the Bank of the United States? The expression, said Mr. B., in the first and second forms of the resolution, is definite, and susceptible of an issue. It is this: "over the Treasury of the United States;" a phrase which imparts to the mind a precise idea, while the phrase, "in relation to the public revenue," which is substituted for it, is not only not equivalent in precision, but entirely different in meaning; the first implying mastership over the money in the Treasury; the second only indicating an action towards public money, which might be in the hands of collectors, never passed to the credit of the Treasurer, and, therefore, never in the Treasury. "Assumed upon himself authority and power." Assumed, but not exercised. Why not use the word exercised? Assume the exercise of power, is the language of the first and second resolution. Now, "exercised" is dropped, and the resolution charges a naked assumption without action. The import of the resolution is lost in ambiguity, by the omission of the word exercised, which would not have been dropped without a motive, after having been twice retained; and that motive was found in the fact, that no majority in the Senate could be brought to vote upon yeas and nays, that the President had exercised unwaranted powers. Assume is the word; and that will signify either the claim of power or the taking of power; the abstract legal potential assumption, without exercise; or the concrete actual assumption manifested in acts. "In derogation of both law and constitution." Derogation! What is intended? the common parlance, or the common law signification of the word? If the common parlance signification is intended, then the President is accused of defaming and scandalizing the constitution—a new species of *scandalum magnatum*—whose nature and punishment is yet to be defined. If the common law meaning is to be understood, then no offence of any kind, not even defamation, is imputed to the President; for the only law meaning of the term is to make less—to take away a part—to repeal in part, as a statute is said to derogate from the common law when it repeals a part of it. And the phrase implies no reproach, for the repeal is a legal act, done by competent authority, and is no way synonymous with violate, which always implies lawless force. "Laws and constitution." Each word an ambiguity again! What more indefinite than "the laws," in a nation that makes a volume a year? What more vague than "the constitution," when we have a constitution of a dozen articles, every article a dozen sections, every section some hundred

clauses, and every clause a distinct and substantive branch in itself?

Such, said Mr. B., is the resolution adopted; a vague, indefinite, studied, elaborate piece of ambiguity, in which the President is condemned, not only without hearing, but without specification, in which the President cannot make defence, except by guessing at what was intended; in which his judges cannot be held down to their responsibility, before the bar of the public, for any one charge whatever; and under which they can, and will, set up as many different and contradictory specifications, as there were votes in favor of the resolution.

Having shown that every specified offence charged upon the President in the resolutions, had been abandoned on the record, or lost in the mystification of amphibological phrases, Mr. B. would take his leave of that part of the subject, and pay his respects to the extent, at all events, of one salute, to the speeches which had been sent out in amplification and explanation of the resolutions, and especially to that part of them which charged the President with seizing the Treasury—"uniting the sword and the purse—creating a state of things (in the deposit banks) more unconstitutional than an unconstitutional bank"—and violating the constitution, by recommending the public moneys to be removed from the Bank of the United States to the State banks. To relieve the Senate from the apprehended infliction of the extended speech which his undertaking implied, he would say at once that he meant to make short work and quick work of a large job; to take the whole of the speeches in a lump, and after reminding the Senate that every thing worth answering in these speeches, had been already answered by the speakers themselves, in the abandonment of their specifications, and in the adoption of the emasculated resolution, he would show that if they had not been so abandoned, their overthrow was as ready and easy as the demonstration of any plain problem in the circle of the exact sciences.

Mr. B. wished to know whether the constitution had been altered since 1811? and if not, he wished further to know whether it was constitutional and lawful for President Jackson and Mr. Secretary Taney to do, in 1833, precisely what President Madison and Mr. Secretary Gallatin had done in 1811? He affirmed that what had now been done in relation to the revenue, had previously been done in 1811; that Mr. Gallatin had made the same transfer of the public moneys from the Bank of the United States to the local banks, which Mr. Taney did, and upon the same contingency, to wit, as soon as he ascertained that a new charter would not be granted to the national bank; that he entered into the same arrangements with them that Mr. Taney did; signing written contracts to keep the public moneys safely; to pay the Treasury drafts in specie, if required by the holder; to give the necessary facilities for transferring the public moneys; and to

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make the periodical return of their affairs which was necessary to enable the Treasury to understand their condition; in a word, that he created the same league of banks—in some instances composed of the same identical banks—which Mr. Taney has created, and which is considered by some as being more unconstitutional than an unconstitutional bank would be; that he made the same seizure of the public moneys which President Jackson has made; effected the same portentous union of the purse and the sword; and that no person looked upon these things, at that time, as the robbery of the Treasury—the exercise of ungranted power over the Treasury—the concentration of all power in the hands of one man; not even the bitterest of the old federal party; to say nothing of the others, now here leading the assault upon President Jackson and Mr. Taney, then in the House of Representatives, acting in harmony with President Madison and Mr. Gallatin, and who can say, of all their acts, *quæque ipse vidi*; all of which I saw; if not, *et quorum pars magna fui*; great part of which I was.

Mr. B. deemed this part of his case so material, and so necessary to be placed beyond the reach of cavil or contradiction, that he should drop the narrative, and have recourse to proof. He would quote the report—at least so much of it as was necessary to establish his statements of Mr. Gallatin, then Secretary of the Treasury, made to the House of Representatives, in obedience to a call from that body, in the month of January, 1812, nearly a year after the removal of the public deposits from the Bank of the United States, and the establishment of that league of banks now so formidable to liberty, so fatal to the constitution; then so innocent and so harmless.

[Here Mr. B. read the extracts from Mr. Gallatin's report of January 8th, 1812, which he referred to.]

Having read these extracts, Mr. B. said the things done by Mr. Gallatin were identical, in the eye of the law and the constitution, with what had been done by Mr. Taney. They acted upon the same contingency, to wit, when it was ascertained that the United States Bank would not be rechartered. They acted in the same way, entering into arrangements and contracts with the State banks, to act as the fiscal agents of the Treasury. They both reported to Congress; but how differently were their reports received? That of Mr. Gallatin without a word of censure, with full approbation; and his league of banks, subsequently increased to a hundred, remained in full vigor for six years, and that without any law to regulate them. The beautiful and classic phrase of "pet banks" was not then invented. Mr. Taney's report, on the contrary, is received in a tempest of clamor and indignation! No language severe enough to characterize his conduct; no epithets odious enough to stigmatize his "pets;" no punishment great enough to atone for his offence. And who is it that raises

this storm against Mr. Taney? The same gentlemen that sat in the 12th, 13th, and 14th Congresses; and who saw nothing to censure or to fear, then, in what fills them with fear and horror now.

Having shown the illegality of the Senate's conduct, Mr. B. would next expose the extreme and peculiar injustice of it. Every part of the protest was subjected to the rack and torture of misconstruction and misrepresentation. Studied, far-fetched, lawyer-like, unnatural, forced, strained interpretations, were accumulated upon its every clause, and every phrase. Tragic and theatrical calls were made for the advisers and writers of such a paper, as if some sacrilege or treason had been committed; and the impending wrath of heaven itself, impatient at the impunity of such enormous guilt, had already seized the fatal thunderbolt, and scanned, with menacing eye, the trembling world that hid the guilty wretch. The right of the President to correct the misrepresentation of his own language, is heroically denied; and notwithstanding the disclaimer of the supplementary message, and the fair import of the protest itself, an obstinate imputation is still made upon the President of a claim to keep and dispose of the public money and property of the United States, by virtue of his own prerogative, and without regard to the authority of Congress. His right to send in the protest is denied, as if the Senate possessed the right of *ex parte* and extra-judicial condemnation over the first magistrate of the republic; and that magistrate did not possess the poor privilege of telling them that he was not guilty, even after they had pronounced a sentence. The judges in hell, exclaimed Mr. B., did better than that! Rhadamanthus himself, in some stage of his infernal process, would, at least, listen to his victim. "First he punisheth; then he listeneth; and lastly he compelleth to confess." Such was the process in the gloomy regions of Pluto. The inventors of the mythology of the ancients could not even conceive of a hell, so regardless of the forms of justice, as not to allow the souls of the damned to speak. But this Senate, trampling upon all the laws known to heaven, and earth, and hell, denies to the President of the United States the privilege of saying that he is not guilty, even after their condemnation pronounced upon him; and affects to treat, as an invasion of privilege, and as a design to rout them from their seats, as Cromwell routed the rump Parliament of England, the transmission of that temperate paper, called the protest, and the respectful request with which it concludes to have it entered on the Journals!

Mr. B. took a rapid view of the deplorable and disastrous effects resulting from the Senate's conduct in joining the Bank of the United States, and in becoming the ally and instrument of that great moneyed power, in its attempt to destroy and to ostracize the President of the people. The deposit of the resolution upon the table of the Senate, which condemned the Presi-

dent for a violation of the laws and the constitution of the country, for dismissing Mr. Duane because he would not remove the public deposits, and appointing Mr. Taney to make the removal, and for exercising ungranted power over the Treasury—a resolution couched in the precise terms which the bank press had indicated before the meeting of the Senate—the deposit of that resolution upon the table of the Senate, and the first sentence in the first speech in support of it, was the opening of the Pandora's box, from which issued forth every imaginable evil to afflict and alarm the people, and to wound and degrade the institutions of the country. Violation of the constitution, insult, outrage, and *ex parte* condemnation of the President; neglect of all the proper business of the Senate; total change and perversion of its character; a new and furious spirit of attack and crimination in this chamber; agitation and alarm of the country; assaults upon all the State banks; the overthrow of some, and a relentless war upon the New York banks, the safety fund, and the regency. Such were the fruits of that flagrant and unjustifiable proceeding, to carry out in the Senate, without the forms of law, that vindictive impeachment of the President which the bank had vainly demanded according to the forms of law, from any member of the legitimate tribunal, the House of Representatives.

The Senate, said Mr. B., was intended to be the conservative tribunal of the constitution—the peculiar guard of its inviolability—the impregnable citadel of its strength—and the holy temple of its sanctity. The age of the Senators—intended to exclude the intemperance and the turbulence of youth; the presumed moderation of their passions, and the gravity of their characters; the long duration of their terms of service, exceeding that of the President by one-half; their high functions, and extraordinary participation in the executive, judicial, and legislative characters of the Government, all combined to promise, for the constitution, in this chamber, an inviolate respect and sacred regard. It was not to have been expected that, in this chamber, in the first half century of the age of the constitution, an attempt should be made to ostracize an eminent citizen, the first magistrate of the republic, whose sole offence consists in having been three times preferred by the people to the highest office in their gift, and to his now standing the impassable barrier to the march of a new power, which aspires to the control of the republic; aiming to install its pensioners into all offices, and to hold the administration of this Government as an adjunct, subaltern, fiduciary dependency of its own paramount self! The Senate of the United States was not expected to have been the theatre of this exhibition. Yet it has been! And America will look for that reparation to the character of a patriot President, which England has often seen rendered to the memory of her illustrious sons, whose attain-

ders, pronounced in times of factious misrule, have been reversed by the power of the people, at the overthrow of faction, and the re-establishment of law and order.

Judges, said Mr. B., who stimulate prosecutions, especially prosecutions to be tried at their own bar, are themselves guilty of impeachable conduct. It was for such conduct that one of the articles of impeachment, on which Judge Chase was tried, was preferred against him. The seventh of the articles recited “that, descending from the dignity of a judge, and stooping to the level of an informer,” he had endeavored to lay the groundwork for the prosecution of a printer, to be tried before himself; “thereby degrading his high judicial functions.” Judge Chase, said Mr. B., plead not guilty to this charge; and to his own honor, and that of the bench, was acquitted upon the facts. But what would become of this Senate, if, like Judge Chase, they were liable to be impeached for stimulating an impeachment which they themselves were to try? Could they plead not guilty? Could they say that the House of Representatives had not been stimulated from this floor to begin the impeachment, and reproached for not doing it? Could they go to trial, as Judge Chase did, upon an issue of fact? Certainly not! and the safety of this august body lies, not in its innocence, but in its exemption from liability to be held to the same accountability that Judge Chase was. But can it escape the judgment of the public, and of posterity? It cannot escape that judgment! The Senate itself will be judged, and is already beginning to feel the sentence of condemnation. A voice from the ranks of the people demands a change in its organization, a diminished duration of term, and an increased responsibility to the States; and in that voice he, Mr. B., most heartily concurred. Six years was too long for a Senator to trample with impunity upon the will and the interests of his State! Aware of its danger, the Senate—Mr. B. spoke of the body collectively, as the least invidious mode of stating a disagreeable truth—aware of its danger, the Senate seeks to avoid its impending fate, by raising an affected cry of alarm; proclaiming themselves to be standing in a breach, and charging the President with a design to overthrow it! as if any Senate was ever overthrown by a military chieftain, until its own conduct had made it odious and contemptible to the people!

Mr. B. continued his remarks upon the lamentable effects resulting from the Senate's attempt to ostracize the President. To the President himself it was a deep and real injury, and intended to injure him, notwithstanding the modest disclaimer of an imputation of motives. A President of the United States is presumed to know the laws and the constitution, and to violate them with wicked intents when he violates them at all. Why else his oath to preserve and maintain them? To his present feelings it is an outrage; in the minds of his

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contemporaries it is an injury; to posterity, if permitted to remain on the Journal, it works all the effect upon his memory of an old English attainer. The power of attainting, said Mr. B., is forbid to our Congress by the constitution; and forbid from a full knowledge of the lamentable uses which factious Parliaments in England had made of that engine of persecution to destroy the best of patriots. Our Congress is wisely forbid to exercise a power so susceptible of abuse; yet the Senate alone exercises it, and inflicts, by this lawless condemnation, all the consequences of a real attainer upon President Jackson; for what has he to suffer from a real attainer but the attain of his memory? He has no children to inherit corrupted blood; none to lament the loss of forfeited estates. He has nothing but his name, his character, and the fame of his great actions, to go down to posterity; and shall that memory go down lawlessly attainted? Shall the Journals of this Senate bear, to the remotest age, the record of that outrage, inflicted by those who should have found in the state of their own feelings, and in the impulses of an honorable heart, the most powerful motives for absenting themselves from a lawful trial, on which they might lawfully have sat.

The changed character, the metamorphosis, and the degradation of the Senate itself, was another of those deplorable consequences. It no longer wore the aspect of a Senate! A stranger coming in, would, at one time, take it for a club-room, where partisan politicians assembled to lay plans for the elevation of themselves and the prostration of their enemies. At another time, he would suppose it to be a hustings, for the delivery of electioneering harangues. At another, an areopagus, for the condemnation of all eminent men. Then a theatre, for the entertainment of a most diverted auditory. Then a temple for celebrating *te deums* over village elections, even those of Negro-foot, Hell-town, and Long-and-Hungry; always a laboratory, for the manufacture of alarms and panics—always a forum for the delivery of tirades against the pet banks, the safety-fund, and the regency—always a tripod for vaticinating woe, and chanting jeremiads over the desolation of the land, and the ruin of America.

Is not this picture, said Mr. B., revolting as it may be, and humiliating as it must be—is it not too truly and too faithfully drawn! Ask that multitude which fills our circling galleries. Ask this assembled multitude if they come here to listen to the dry details of legislative labors, or to amuse themselves with scenes of attack and defence; of forensic legislation and parliamentary warfare; of theatrical display and scenic representation, in which the player that pleases them most, is sure to be rewarded with a clap in the galleries, if not with a treat in the cellar. Ask them if they do not come here as to a cock-fight, or a milling-match; to a race-field, or a bear-garden; to a circus, or a theatre; to a court-house, or a club-room; and where

they are sure to be entertained to the full extent of our theatrical powers.

Mr. B. continued: The effect upon the public mind, all over the country, has been prodigious and deplorable. It is the first time that the American Senate has undertaken to alarm and agitate the country. The people were unprepared for the assault, and staggered under its force. The cry of revolution was startling. Hitherto bloodless, was an appalling intimation of the near approach of the fatal moment when the flow of blood could no longer be restrained. Peaceful and quiet citizens were alarmed; the land was filled with terror; and the boding apprehension took place that the verdant spring would open, not with the joyful tasks of the husbandman, but with the clangor of arms, the storm of battle, and all the woes of fraternal strife and domestic war. In this gloomy state of the public feeling, the New York and Virginia elections came on, and the results bore witness to the extent of the panic which had been gotten up—results which were received in this chamber with an excess of exultation, and a show of frantic exhibition, worthy to grace the feast of the Lapithæ and Centaurs, or the nocturnal orgies of a Saturnalian celebration. It was then that there was daily witnessed in this Senate that detailed succession of Senators rising in their places, every morning, the instant the Journal was read, grief on the tongue, joy in the eye, triumph in the heart, to announce some calamity just happened—a merchant failed, a factory stopped, a bank broke, and to foretell greater calamities to come. It was then that the distress orators immortalized themselves, diurnally, on the presentation of a distress memorial. It was then that the chaste and classic metaphor, worthy to charm the ears of a Roman or Athenian auditory, was heard, that the last lick on the head of the last nail in the coffin of Jacksonism, had been struck. A figure of speech in which congruity of images, beauty of diction, elevation of sentiment, and historical truth, vied for pre-eminence, and revived the recollection of those immortal productions—the coffin hand-bills.

Upon the property of the country, great mischief was for some time done. Stocks of all kinds were made to fall—the price of produce sunk—the rent of money rose—real and personal estate lost a sensible proportion of their value. Many merchants were ruined—several banks stopped payments—but the pet banks, and the safety-fund system, these selected objects of persevering attack—these marked and devoted victims of Senatorial and United States Bank denunciation—they rode out the storm, and live to expose to the world the source of the blow, and the instrument of its infliction. The safety-fund especially, saw in the Senate of the United States, the instrument of the Bank of the United States in waging that ignoble war upon their character and credit, which the bank, through its servile periodical, called a Review, had marked out as far back as March, 1831,

and again in March, 1832. Mr. B. deemed it due to the cause of truth and justice to present to the Senate, and through it to the public, some extracts from the bank periodical alluded to, that all America should see and know that the Senate of the United States, in arraigning the Albany regency—in attacking the credit of the safety-fund banks, ascribing the origin of their system to political motives, and holding up the Bank of the United States as the corrector of that system of banks—the preserver of the property of the people—the guardian of the political purity of the State of New York, and the frustrator of the safety-fund scheme, was only following a lead that had been given it, and was, in fact, acting under the auspices, obeying the impulsion, and promoting the designs, political and pecuniary, of the Bank of the United States. The following are the extracts:

[Here Mr. B. read extracts from the March numbers of the Review referred to, to show that the Senate was following in the wake of the Bank of the United States, on all the points mentioned.]

We have, indeed, said Mr. B., passed through a strange, eventful scene, so checkered with unreal and illusive representations, that the shadowy figures of the magic lantern, or the phantasmagoria of bewildered senses, could not leave a more confused sensation of mock and mimic images upon the mind. We constantly saw and heard things so extravagant and incredible, that it required an effort of the reason to convince ourselves that we did see and hear them. At the opening of the session, in the midst of calm and tranquillity, when patriots and sages would have labored to maintain the quiet and happiness that prevailed, we were saluted with the cry of a revolution! and the immediate impending ruin of every thing sacred and valuable. The first sentence of the first speech, in favor of the impeachment resolutions, proclaimed the country to be in the midst of a revolution! with the portentous declaration, "hitherto bloodless!" as if the shedding of blood had with difficulty been restrained up to that time, and its fatal commencement was then to begin. Such was the opening of the session of the Senate of the United States; of that body which ought to be the most grave and sober upon the face of the earth. Such was the opening; and from that moment the whole action of the body seemed to be directed to produce the revolution, and the bloodshed, and the ruin, which had been proclaimed. For some time these deplorable labors seemed to be but too successful. Consternation pervaded the country; terror invaded the stoutest hearts; agitation shook cities and States. The work seemed to be accomplished, and the encouraging whisper was heard in this chamber, Revolutions never go backwards! But, happily, words cannot make revolutions. They break no bones, however hard they are; they spill no blood, however

sharp. Catastrophies, and especially bloody catastrophies, can alone make revolutions; and the nineteenth century is not the age in which people kill themselves, or get others to do it, to fulfil predictions. The catastrophies would not come. The elections went over—the jubilees passed by; the tocsin orators had sounded their last peal; and no blood was shed. A few banks broken; some merchants ruined; the Sabbath abolished; and that was the sum total of the incidents and trophies of that redoubtable revolution which had been proclaimed from the Senate floor, and which was to end in the destruction of every thing sacred and valuable.

Two incidents in this drama, Mr. B. said, deserved the distinction of a particular notice; namely, the manner in which the Senate received the news of the abolition of the Christian Sabbath, and of the President's intention to attack the Senate with an armed force. A Senator from one of the oldest States, rising in his place, and evidently much affected by the awful occurrence which he was about to communicate, related what had happened to the Sabbath, precisely as he had heard it at Baltimore, in stepping out of a steamboat, in presence of a multitude, "such as no man could count." An elder of the Presbyterian church was his informant; and the fact admitted of no doubt; "for in times of revolution there are no Sabbaths;" and this was a revolution, the actuality of which having been vouched on the Senate floor, could not be doubted in the body of the Senate; so that in this nineteenth century, and in this America, the Christian Sabbath seemed to be as clean gone as it was in France during the sad revolution in that country, and when the architects of ruin, as Edmund Burke called them, abolished the seventh day, and established their *decadi* the tenth. The annunciation of the Senator was heard with profound emotion in this chamber; and instantly flew across the empire of the Christian world upon the black wings of horror and amazement. Another Senator announced the approach of the military force which was to disperse this august body. The force was to consist of infantry and marines; the latter, doubtless, intended to cut off all retreat from the capital by water; while the land forces would do business on the *terra firma* of the Senate floor. Upon this intelligence, the defensive genius of the Senate was immediately put into requisition. To arm our first door-keeper with the rod and the mace, while the second should lead on the boys and messengers, with sticks and staves, was the plan of defence which it was the prerogative of genius to present to the fearful emergency. Individual Senators took noble resolutions. Some decided that they would be killed, as they sat, like real Romans, in their curule chairs; and it was observed that those who took this resolution began to let their beards grow, that its length and venerableness might provoke, upon some rash soldier, the sudden fate of the sacrilegious Gaul. Others, more impatient, determined to sally

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forth; to meet the daring host at the front gate; and there to fall, like Constantine Paleologus, the last of the Greek emperors, under a mountain of dead, the useless carnage of his own remorseless sword. Happily the Senate was not put to this direful test of its fortitude and heroism. The day was fixed for the arrival of the armed force: the day came, but the troops did not! and from that hour the revolution lost its march, fell backwards, and vanished! and the Christian Sabbath, recovering its place in the calendar, survives its imminent danger, continues to solace the pious, to refresh the weary, and to attest to the whole world the respect which American Senators bear to it.

The greatest mistake, said Mr. B., which a politician can make, is to underrate the intelligence of the body of the people. It is also the most common and reiterated mistake into which they fall. It was particularly the mistake of the present day, and of the present Senate. The public intelligence had been manifestly and grossly underrated in the great experiment which had been made upon it. The credulity and the ignorance of the people is not what such an experiment presumes. Few among them who will not see, eventually see, and that with shame and resentment, the theatrical efforts made on this floor to alarm and agitate them. The time is at hand when this long list of "gorgon's heads and chimeras dire"—revolution, bloodshed, seizure of the Treasury, union of the purse and sword, invasion of privileges, overthrow of the Senate, war upon the bank, alarming doctrines of the protest—which have been conjured up, by the madness of ambition, to deceive and distract the public mind, will be viewed by the people at a distance with the same contempt and indifference with which they are now witnessed here. At a distance, our theatrical exhibitions have been formidable; to those present, they were nothing but a grand farce, amusing some, flattering the hopes of others; but deceiving nobody! not even the little misses who came here with their matron mothers, and bearded sires, to witness the performances of the American Senate.

But enough, said Mr. B., enough of this mortifying retrospect. I close the debate on the protest message, and the deposit question, with announcing to the Senate the judgment of the age, and of posterity, which will consign to the most inglorious page of American history, the whole subject which has occupied our deliberations for the last four months.

The Vote on the Resolutions Condemning the Protest.

The question was taken on the resolutions separately, when they were decided in the affirmative, as follows, the vote being the same on each of the four resolutions:

YEAS.—Messrs. Bell, Bibb, Black, Calhoun, Clay, Clayton, Ewing, Frelinghuysen, Kent, Knight, Leigh, Moore, Naudain, Porter, Poindexter, Preston, Robbins, Silsbee, Smith, Southard,

Sprague, Swift, Tomlinson, Tyler, Waggaman, Webster—27.

NAYS.—Messrs. Benton, Brown, Forsyth, Grundy, Hendricks, Hill, King of Alabama, King of Georgia, Linn, McKean, Shepley, Tallmadge, Tipton, White, Wilkins, Wright—16.

So the resolutions were agreed to, in the following form:

Resolved, That the protest communicated to the Senate on the 17th instant, by the President of the United States, asserts powers as belonging to the President, which are inconsistent with the just authority of the two Houses of Congress, and inconsistent with the Constitution of the United States.

Resolved, That while the Senate is, and ever will be, ready to receive from the President all such messages and communications as the constitution and laws, and the usual course of business authorize him to transmit to it, yet it cannot recognize any right in him to make a formal protest against votes and proceedings of the Senate, declaring such votes and proceedings to be illegal and unconstitutional, and requesting the Senate to enter such protest on its Journals.

Resolved, That the aforesaid protest is a breach of the privileges of the Senate, and that it be not entered on the Journal.

Resolved, That the President of the United States has no right to send a protest to the Senate against any of its proceedings.

FRIDAY, May 9.

Land to Exiles from Poland.

Mr. POINDEXTER moved to amend the bill by requiring one settler for every five hundred acres, instead of three hundred, as provided for in the bill; which was agreed to.

Mr. LINN moved an amendment to insert "Missouri," so as to authorize the location in that State, if the President shall think proper.

Mr. POINDEXTER said, that these exiles preferred a location in a non-slaveholding State.

Mr. LINN remarked, that his wish was not to restrict these persons; he rather wished to give them a greater latitude for their choice.

The amendment was not agreed to.

Mr. KANE was opposed to the bill. In its present form it would authorize a location on the Galena lead mines. He did not approve of the preference given to these people over our own citizens, and he, for one, was unwilling to make the discrimination. He therefore moved an amendment, confining the location "to lands subject to sale at private entry."

The amendment was not agreed to.

Mr. HENDRICKS was willing to sell these persons the land at a minimum price, on a long credit, but not to give it to them. A case of foreigners, similarly circumstanced, existed in Indiana. A large number of emigrants from the cantons of Switzerland settled there, in the most abject poverty, and having devoted themselves to the cultivation of the vine, by industry and economy they had accumulated a respectable property.

The bill was ordered to be engrossed for a third reading.

MONDAY, May 12.

Donation of Lands to Polish Patriots.

The bill granting a donation of lands to the Polish Patriots who had been sent to this country by the Emperor of Austria was announced on its third reading; when

Mr. WAGGAMAN called for the yeas and nays, and the bill was passed by

YEAS.—Messrs. Benton, Calhoun, Clay, Clayton, Ewing, Frelinghuysen, Kent, King of Georgia, Knight, McKean, Moore, Morris, Naudain, Poindexter, Porter, Prentiss, Preston, Robbins, Silabee, Smith, Tallmadge, Tipton, Tomlinson, Webster, Wilkins—25.

NAYS.—Messrs. Black, Brown, Grundy, Hendricks, Hill, Kane, King of Alabama, Robinson, Shepley, Swift, Tyler, Waggaman, White, Wright—14.

MONDAY, June 2.

Restoration of the Deposits.

Mr. CLAY moved to postpone the previous orders, and take up the joint resolutions submitted by him some days since, on the removal of the public deposits. The resolutions were taken up.

Mr. CLAY expressed his hope that no unnecessary time would be taken up in discussing the resolutions, but that they might be passed upon this day. The first resolution had been already discussed for several months, and he did not intend to say a single word on the subject of the second resolution, unless the course taken by gentlemen on the other side should render it necessary for him to do so.

Mr. BENTON moved that the resolutions be postponed, for the purpose of giving the Senate an opportunity of considering the following resolution:

Resolved, That the Senate will not consider any proposition to restore the public moneys to the keeping of the Bank of the United States, or to renew the charter of that bank, until after it shall have submitted to a full examination of its affairs by a committee of one of the Houses of Congress, and especially into the part which the bank may have acted, if any, in producing the late commercial embarrassments and distresses.

Mr. BENTON, in support of his motion, spoke somewhat at large in vindication of the right of Congress to examine into the conduct and affairs of the bank, and its duty to do so, before it would entertain any proposition of honor or confidence to that institution. The right to make this examination, he said, rested upon many grounds. A clause in the charter reserved this right, and reserved it without limitation or restriction, without forms or conditions; and it was not to be endured that this unconditional right, reserved by Congress, should be defeated and nullified by the interposition of forms and conditions, restrictions and limita-

tions, prescribed by the bank itself, and which would put it into the power of that institution to be examined or not, just as it pleased. Besides this chartered right to examine the bank, Mr. B. said that the United States was a partner in the institution, and possessed the natural and equitable right of all partners to know how the partnership concerns were managed. Every partner has a right to examine the books and papers of the concern; dormant partners possess this right as well as active partners; and if the members of the concern who have charge of these books and papers, refuse to submit them to the inspection of the other partners, a court of equity will interfere, upon the application of the injured party, and place the books and papers where every partner can have free access to them. This is the natural right, and equitable law of partnerships; and the people of the United States, who are partners to the amount of seven millions of dollars in this bank, have a right to see how it has been managed, and their representatives are the proper persons to exercise that right. A committee of Congress is the proper organ to examine for the people; and if such a committee should be repulsed from the door of the bank, then the rights of the people, as partners in the institution, are resisted and violated. A third ground on which Mr. B. bottomed the right of the Government to examine the affairs of the bank, resulted from the nationality of the institution—from its national character, in contradistinction to its mere banking character—and the consequent liability which it incurred with all other national institutions, to undergo the supervision of the power which created it. On this point he quoted General Hamilton, and showed that that eminent man, when he was first recommending a Bank of the United States, in the year 1791, openly asserted the right and the duty of the Government to examine the institution as often as it thought fit, and declared that an objection to such an examination would imply mismanagement. Here he read the following paragraph from General Hamilton's report of 1791:

"If the paper of a bank is permitted to insinuate itself into all the revenues and receipts of a country; if it is even to be tolerated as the substitute for gold and silver, in all the transactions of business, it becomes, in either view, a national concern of the first magnitude. As such, the ordinary rules of prudence require that the Government should possess the means of ascertaining, whenever it thinks fit, that so delicate a trust is executed with fidelity and care. A right of this nature is not only desirable as it respects the Government, but it ought to be equally so to all those concerned in the institution, as an additional title to public and private confidence, and as a thing which can only be formidable to practices that imply mismanagement."

All this has happened, said Mr. B. The paper of the Bank of the United States has insinuated itself into the receipts and revenue of

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the country; it has become a substitute for gold and silver; it has entered into all the transactions of business between man and man; and, thereby, this bank has become a national concern, and a concern of the first magnitude. The branch of the Government immediately representing the people, have thought fit to order an investigation into the affairs of the bank, and that investigation has been resisted and defeated by the bank. In the language of General Hamilton, this resistance implies mismanagement; and that mismanagement ought to stimulate the Government to an exertion of all its powers to enforce the examination to which it is entitled. A fourth ground upon which Mr. B. placed the right of the Government to examine the affairs of the bank, related to the restoration of the deposits and the renewal of the charter. If the bank was culpable, it would have no claim to the further keeping of the public moneys, and it ought to submit to have that question of culpability tried by the evidence of its own books. If it had abused the powers granted to it, it can have no claim for further favor or confidence. On this point, he took a decisive stand, independent of the charter, and independent of all legal rights, and resting upon the great principle, that the Government had a right to know how the bank had been managed during its present existence, before it would renew to it another term of existence. This was a condition precedent in the hands of the Government. It was a condition which it had a right to prescribe, and which, under present circumstances, it was eminently its duty to prescribe. It had a right to say to the bank, We wish to know how you have exercised the great powers we have granted to you, before we renew those powers; we wish to examine your own books, to see what your conduct has been; and until you submit to that examination, we will not entertain or consider any proposition to renew your extraordinary privileges. This was what the Government had a right to say. It was what was done in England in relation to all great corporations—the East India Company, as well as the Bank of England. A committee of forty-eight members had thoroughly investigated the affairs of the East India Company before its charter was renewed; a committee of thirty-two members had also thoroughly examined the affairs of the Bank of England before its charter was renewed at the last session of Parliament. Lord Althorp, in the House of Commons, in 1831, felt almost as an imputation upon him the question put by Sir Henry Parnell, whether he meant to ask for a renewal of the bank charter before a committee of the House had investigated the affairs of the bank. He declared that there should be full inquiry; and full inquiry there was, without limitation, restriction, condition or formality on the part of the bank. Mr. B. said it was the right and the duty of Congress to act in the same way towards the Bank of the United States.

Even if no misconduct was imputed to it, it would be right to examine, and see if no misconduct had occurred. It should be a preliminary step of prudence and precaution, before such large powers should be granted again. But there was misconduct imputed to it; and dropping all other imputations, he would point out the one which stood first on the list of inquiries ordered by the House of Representatives—which was alluded to in the resolution which he proposed to submit, if the postponement took place which he moved for—and which went to ascertain whether the Bank of the United States was the author of the distresses which had prevailed in the country during the past winter? This he held to be a most vital inquiry, and one that should never be abandoned until the true authors of that distress were made known to the people. An immense number of memorials presented to Congress, charged it upon the President; a great number of others charged it upon the bank. The truth of these charges the people ought to know; and certainly the bank ought not shrink from the evidence of its own books. A strong presumptive case of guilt was made out against it; and that presumption was ripening into full proof and absolute conviction, under the conduct of the bank in refusing to submit to the test of its own books. The Government directors, in their memorial addressed to Congress, had strongly inculcated the bank, and gone into a statement of facts to show that the directors refused every proposition to conduct the curtailment of the bank debts on a plan of equality and impartiality, and put the whole business of the curtailment into the hands of a subaltern committee appointed by the president of the bank alone, and exempted even from the small restraint of reporting to the board of directors!—affirming that the late pressure in the money market had been occasioned by the bank itself—that the curtailment had been conducted by a secret committee, and had been partial, unequal, and unnecessary. Mr. B. went on to read several extracts from the memorial of the Government directors, to prove what he said. At page 16 of their memorial, he read a resolution submitted by the Government directors to the board, proposing a systematic reduction, to be gradual in its operation, and to bear upon all sections of the country, and all classes of debtors, in the same degree and proportion. This plan, the committee say, would have prevented an oppressive, sectional, and partial curtailment, and would have confined the business of curtailment to the board of directors, and given to every director a voice in what was done. This plan was rejected! No—worse than that!—the imperious board refused even to consider it! and forthwith adopted a series of resolutions for reducing the business of the institution, and gave authority to the committee of the offices to modify these resolutions as they should deem expedient, and peremptorily refused to require this committee, thus invested

with unlimited power over the great and delicate business of curtailment—refused to require them even to report to the board of directors! This, Mr. B. considered to be a flagrant breach of the charter, which expressly enacts that not less than seven directors shall constitute a board to transact business. The reduction of a debt of sixty odd millions, was certainly a piece of business! It was the most important piece of business ever transacted by the bank; and has been so transacted as to fill this hall with cries of ruin and distress from various quarters of the country.

The Government directors expressly charge, at page 17 of their memorial, that "We attribute to them the excessive curtailment in the business of the institution, which has been so sudden and oppressive, and which was not necessary, either to the extent to which it was carried, or in the manner in which it was made to bear on the community." Having read these extracts, Mr. B. commented upon them as containing a direct charge, first, of a breach of the charter in committing the proper business of the board to a subaltern committee of three members; and, secondly, of a partial, sectional, unnecessary, and oppressive curtailment of the debts of the institution. These were the charges; charges made by the Government directors, and not in newspapers, but in a memorial to Congress. True, these directors have been rejected by the Senate; but, equally true, the House of Representatives had ordered an inquiry into the conduct of the bank, and have put this charge of the Government directors at the head, and in the very front, of the subjects to be inquired into by their committee. True again, that the charter reserves to either House of Congress the right, through a committee, to inspect the books, and to examine the proceedings of the bank, to see whether the charter has been violated. But what has happened? The Committee of the House, sent to Philadelphia to inspect the books, and examine the proceedings of the bank, have been resisted and repulsed! They return without accomplishing their mission! and a loud cry is set up in one general chorus, by the bank, and all its friends, in Congress and out of Congress, that the Government must go to law with the bank! that the directors are not bound to criminate themselves! that a *scire facias* must issue, and then they will answer in court! Thus refusing to abide the evidence of their own books! Thus refusing to let a committee of Congress inspect their books, and examine their proceedings, to ascertain whether the bank was innocent, or guilty, of a wanton oppression of the community, during the past winter. Mr. B. said, that since the distresses of the South Sea scheme in England, at the commencement of the last century, there had not been in any country so loud and pervading a cry of distress, as has been heard in this country during four or five months past. The cries of the English people had been carried to Parliament, as the cries of the American

people have been brought to Congress. What did the English Parliament do? Immediately raised a committee: sent them to examine the directors of the South Sea Company; received their report; ordered all the directors to the bar; interrogated them in the face of all England; convicted them of practices which had distressed, alarmed, and injured the community; and sent them to jail, loaded with the curses of an outraged kingdom. This is what Parliament did in a similar case to what has now happened in our America. Mr. B. would not ask what Congress had done. That question was yet to be tried in the House of Representatives; he would not anticipate the issue; it was not his business to do so. But what had the Senate done? Had it ascertained the truth of the charges made by the Government directors, before they were rejected? Not at all! Had they ascertained the truth of these charges before they proposed to restore the public deposits to the keeping of the bank? Not at all! Nothing is inquired into—nothing ascertained—all taken for false or frivolous that is alleged against the bank; and even her cry adopted, of, Go to law! Mr. B. remarked upon this cry for a *scire facias*, so suddenly adopted in the Senate here. It had broken out to-day, and now resounded from all quarters. Whence this cry? It comes from Philadelphia! It is brought back by the minority of the bank committee; it is put in their report; and forthwith, it becomes the cry of the whole bank party. But what a contradiction is exhibited, and exhibited here to our faces! What a change in a few brief days! For four months we heard nothing else but of this responsible bank, subject to the control of Congress! this creature of our own creation, over which we had ample control! Yes, ample control! that was the word! this fiscal agent, which was responsible to Congress, not to the President! and which was right in resisting all amenability to the President, because it was to Congress that the charter made it responsible! This was the language, in this Senate, for four months! What is it now! Why, that it is not Congress, but the Judiciary, to which it is liable. It is the court—the court—to which it will submit. She will go to law with Congress, but will not submit to be examined by a committee. Congress may send a *scire facias*, but no committee of investigation. Such is the new refuge, or subterfuge of the bank. When the President asks for information through the Government directors, his authority is resisted, because the bank is responsible to Congress, and not to him! When Congress asks the same information, then Congress is resisted, because the bank is responsible to the Judiciary, and not to Congress! Such are the contradictions, such the subterfuges, such the tricks played off in our faces, and in the view of the whole American people. In the face of such evidences of guilt—in the face of such a strong presumptive case to convict the bank of being the author of the distresses which have

spoke at length in favor of the

said : Mr. President, I confess I am a little surprised to hear the Senator from Ohio say that Michigan is here. I contend that she has not yet that those rights have not an equal on this floor than I am. My duty is to say a few words against this bill, and I flatter myself I am able to show to the Senate and to that Ohio has no well-founded claim from Michigan that part of her territory added by the bill on your table. But in possession of this tract of territory years ago, by the Congress of the United States. She has organized her courts and her court-houses and other public buildings and made all her local arrangements for the territory now in dispute ; and she just to take it from her. I will not say that the action of Congress has been at all wise, but by reading the laws and resolutions on that subject.

I have consulted my own wishes, I have referred the settlement of this question to the treaty between the State of Ohio and the Territory, until Michigan had been admitted into the Union as an independent State, an opportunity of being represented on the floor by two of her own citizens. The Legislature and the delegates from Ohio, are pressing this question, and believing it within the power of Congress to settle it, I hope that they will do so with an eye to the equal justice between the parties and at rest forever.

And Mr. T., that Congress, the Territories, had the power to divide the North-western Territory by a line due east and west from the northern bend or extreme of Lake Michigan into one or two States, or to attach it to the State, as the public interest might require. In the exercise of her sound discretion, Congress did extend Indiana ten miles, and the State of Ohio ten degrees north of that line. This was done for the public convenience and should be so attached, to give harbors on the lakes, and the navigation.

Virginia, in 1786, modified her constitution to give Congress this discretion. It is not doubted that Congress possesses the power.

The sovereign States are equally small. The least State has as great a representation as the largest. On this body of States, therefore, must rely for protection against the encroachments of their more powerful neighbors ; and, relying on the justice of the Union, they need not fear the result. With a population of between 50,000 and 60,000 souls, has no voice on this floor ;

she has, it is true, a delegate in the other House, with a right to debate but not to vote in settling questions where she is interested. Ohio has a population of more than a million of souls, with two Senators here and nineteen Representatives in the other House of Congress. This fearful odds arrayed against the Territory, and demanding of Congress to reduce it, by adding to the great State of Ohio, already too powerful for the peace of her less powerful neighbors; but she trusts her case to the justice of the Senate, and need not dread the decision.

I concur in that part of the report made by the honorable chairman of the Judiciary Committee, that asserts the power of Congress to settle this question. I contend that this is not wholly a question of law, but also a question of political expediency, and that it is neither expedient nor proper to extend the jurisdiction of Ohio north of a line drawn due east from the southern extreme of Lake Michigan to Lake Erie, and believing this, I protest against it, in behalf of the people of Michigan, as being uncalled for by the public interest, inexpedient, and unjust.

To satisfy the Senate that the law is against Ohio, I will read the second section of an act of Congress, approved 30th April, 1803, entitled "An act to enable the people of the eastern division of the territory north-west of the river Ohio, to form a constitution and State Government, and for the admission of such State into the Union on an equal footing with the original States." It is as follows :

"That the said State shall consist of all the territory included within the following bounds, to wit: Bounded on the east by the Pennsylvania line, on the south by the Ohio River, to the mouth of the Great Miami River, on the west by the line drawn due north from the mouth of the Great Miami aforesaid, and on the north by an east and west line drawn through the southerly extreme of Lake Michigan, running east, after intersecting the due north line aforesaid from the mouth of the Great Miami, until it shall intersect Lake Erie or the territorial line, and thence with the same through Lake Erie to the Pennsylvania line aforesaid: provided, that Congress shall be at liberty at any time hereafter, either to attach all the territory lying east of the line to be drawn due north from the mouth of the Miami aforesaid to the territorial line, and north of an east and west line drawn through the southerly extreme of Lake Michigan, running east as aforesaid to Lake Erie, to the aforesaid State, or dispose of it otherwise, in conformity to the fifth article of compact between the original States and the people and States to be formed in the territory north-west of the river Ohio."

By this law Congress reserved the right either to attach this territory to the State of Ohio, or to make such other disposition of it as the public interest may require. All the people living within the limits prescribed by this act were authorized to form for themselves a constitution and State Government. No one living beyond the bounds prescribed by this law had a right to take part in forming a constitution for Ohio. The people residing in one portion of

this country, could not form a constitution for those residing elsewhere, nor could a territory, not included within the limits laid down by this act, be embraced within the State of Ohio, without the assent of Congress. Hear what the Ohio convention said upon this subject. Sixth section, seventh article, Constitution of Ohio :

"That the limits and boundaries of this State be ascertained, it is declared that they are as hereafter mentioned; that is to say: bounded on the east by the Pennsylvania line, on the south by the Ohio River to the mouth of the Great Miami River; on the west, by the line drawn due north from the mouth of the Great Miami aforesaid; and on the north, by an east and west line drawn through the southerly extreme of Lake Michigan, running east, after intersecting the due north line aforesaid from the mouth of the Great Miami, until it shall intersect Lake Erie or the territorial line, and thence with the same through Lake Erie to the Pennsylvania line aforesaid: provided always, and it is hereby fully understood and declared by this convention, that if the southerly bend or extreme of Lake Michigan should extend so far south, that a line drawn due east from it should not intersect Lake Erie, or if it should intersect the said Lake Erie east of the mouth of the Miami River of the lake, then, and in that case, with the assent of the Congress of the United States, the northern boundary of this State shall be established by, and extending to a direct line, running from the southern extremity of Lake Michigan to the most northerly cape of the Miami Bay, after intersecting the due north line from the mouth of the Great Miami River as aforesaid, thence northeast to the territorial line, and by the said territorial line to the Pennsylvania line."

I hope the Senate will bear in mind, that the line to be drawn east from the southern bend or extreme of Lake Michigan to Lake Erie or to the territorial line of the United States, was the basis for the northern boundary of Ohio. The southern bend of Lake Michigan was the permanent controlling point to govern in establishing the line of demarcation between Ohio and the State to be formed north of it. The Canada or territorial line of the United States was a collateral, not material point. It is immaterial for all practical purposes, whether the northern boundary of Ohio intersects the Canada line or not. It being an open space of water in Lake Erie, no permanent demarcation can be made to distinguish this line; nor is it at this day so distinctly known, that we can determine whether the line drawn east from Lake Michigan will intersect the Canada line or not. Some affirm that it does—others doubt it.

The Constitution of Ohio was transmitted to the seat of Government by Mr. Worthington, who was appointed special agent for that purpose; he had been a member of the convention that formed the constitution, was one of her first Senators in Congress, and afterwards Governor of that State. The constitution was referred, in the House of Representatives, to a committee, of which Mr. Randolph, of Virginia, was chairman. This committee was direct-

[SENATE.]

And in the further developments of the country, no new request has presented

see what Mr. Morrow, the one in Congress from Ohio, object. I find that he thought Congress was necessary to the line in the sixth section of the Constitution of Ohio. introduced into the House of Representatives session of 1811-'12, the

a committee be appointed to inquire into the expediency of confirming the northern boundary of the State of Ohio, as designated in the sixth section of that State, and of providing for a general survey of the western boundary of the State, and that they report by

a distinct proposition to Congress to run the line between Ohio and Kentucky to the proposition in the Ohio. And here, again, Ohio the denial of her request. A law was enacted to suit the views and of Morrow, of which I will read a copy passed on the 20th of May,

by the Senate and House of Representatives of America in Congress assembled, That the Surveyor-General, under the authority of the President of the United States, do by, authorized and required (as much of the Indians can be obtained) to be surveyed, marked, and designated, so as to show the northern and southern boundaries of the Territory which have not already been ascertained, and to separate the said State from the Territories of Michigan, agreeably to the boundaries of the act entitled 'An act to enable the President to divide the Territory of the River Ohio to form a constitution for the Territory, and for the admission of such Territory on an equal footing with the other States, and for other purposes,' passed on the 18th of May, 1802, and to cause to be made a survey of the boundary line as runs from the extreme of Lake Michigan to Lake Erie, noticing the place where the said line crosses the margin of said lake, and to return a report thereof to Congress."

The northern boundary of Ohio, under this law, was not completed in 1818, owing to the Indian war of 1812; and when this survey was completed in conformity to the several acts of Congress, passed on the 30th April, 1802, 11th February, 1803, 10th May, 1812, providing for the separation of Ohio and the Michigan Territory, the people of that Territory had to hope that the question of boundary was finally settled. But, sir, it was not so. Mr. Brush, a Representative from Ohio, in February, 1812, introduced the following resolution:

[SENATE.]

Memorial of Seth Pitts.

[JUNE, 1834.]

"*Resolved*, That a committee be appointed to inquire into the expediency of providing, by law, for surveying, marking, and permanently establishing the northern boundary of the State of Ohio, beginning at a point north of the most northerly cape of the Miami Bay, running thence due west, to the intersection of the west line of said State."

Mr. Brush was not content to take what they now ask. He wanted to run a line due west from the north cape of Miami Bay to the west line of the State.

This resolution, however, the House refused to consider, although frequently urged upon their attention by the mover, and Mr. Beecher, one of his colleagues.

Mr. Woodbridge, then the delegate from Michigan, was more fortunate. Seeing that the House refused to consider Mr. Beecher's resolution, he submitted the following:

"*Resolved*, That the line heretofore caused to be surveyed, marked, and designated, from the southern extreme of Lake Michigan due east, in pursuance of the provisions of an act entitled 'An act to authorize the President of the United States to ascertain and designate certain boundaries,' passed 20th May, 1812, so far as the same extends due east from the western boundary of the State of Ohio, be, and remain, the established boundary between the said State and the Michigan Territory."

This resolution was referred to the Committee on Public Lands, of which Mr. Anderson, of Kentucky, was chairman; and after being discussed before the committee by the delegate from the Territory, and the members from Ohio, it was reported to the House by Mr. Anderson without amendment, and it is believed would have passed, but for want of time before the close of the session of Congress.

The same subject has been frequently urged upon the attention of Congress by Mr. Beecher, Mr. Vinton, and now by the honorable Senator, (Mr. EWING,) asking us to do what Congress has refused for thirty years. I would ask, is it just for us to strike from Michigan four or five hundred square miles of territory, over which she has exercised jurisdiction for many years, and thereby reduce three of her most respectable counties, both as to territory and population, Monroe, Lenawee, and Hillsdale; thereby lessening her prospects of being admitted into the Union for years to come?

Both the Senators from Ohio and Delaware say that Ohio should own the termination of her canal. I trust I have shown that she now owns it. The canal never will be extended below Maumee. Does Ohio want the head of steamboat and sloop navigation? She now has it. Does she claim the extensive water power created by the construction of the Wabash, Miami, and Erie Canals round the rapids of the Maumee River? She now owns it. And I am at a loss to see what Ohio is contending for, unless it be to increase her power, that is already overshadowing her sister States in the valley of the Mississippi. Ohio embraces within her limits near forty thousand square miles.

That it is capable of sustaining an immense population, is abundantly proved by her late census.

The Michigan Territory embraces but about 31,000 square miles. Ten thousand of this is not habitable, it being hemlock flats. Michigan will always be a third or fourth rate State in point of population, even including all her present territory within the peninsula. Congress put her in possession of this country, and has defended her against Ohio for 30 years. I contend, therefore, that the Territory has a vested right, by occupancy, which we should not disturb at this late day. By reducing Michigan to add to Ohio, we but make the weak weaker, and the strong stronger. To what other tribunal should the Territory look with such confident hope of protection against encroachment, as to the Senate of the United States?

For the purpose of ascertaining whether the Senate are determined to settle this question at this time, I move that the further consideration of this subject be indefinitely postponed.

Mr. LIGON argued at considerable length against the postponement, and in favor of the bill, contending that it was a question of political expediency, that this matter should be settled in favor of the State of Ohio.

The question was taken and decided as follows:

YEAS.—Messrs. Benton, Black, Brown, Grundy, Hill, King of Alabama, McKean, Swift, Tipson—9.

NAYS.—Messrs. Bell, Bibb, Calhoun, Chambers, Clay, Clayton, Ewing, Frelinghuysen, Hendricks, Kane, Kent, Knight, Leigh, Linn, Mangum, Morris, Naudain, Poindexter, Porter, Prentiss, Robbins, Robinson, Shepley, Smith, Southard, Sprague, Tomlinson, Waggaman, Webster, White—30.

So the Senate refused to postpone the bill indefinitely.

Mr. TIPSON then offered an amendment changing the boundary line between Ohio and Michigan; which was negatived.

The bill was then ordered to be engrossed, and read a third time.

MONDAY, JUNE 9.

Petition of Seth Pitts, revoking his Signature to a Distress Memorial.

Mr. SHEPLEY said he had a distress memorial, signed by a single individual, which he desired should be read. The memorial was signed by Seth Pitts, a soldier of the Revolution, who stated that he did not wish to die until he had atoned for an error that he was forced into, without knowing what he was about; and requested that his name might be erased from a memorial sent to the Senate. He had signed a petition, urging Congress to have the deposits restored, and the bank rechartered, when, in truth, he was opposed to the corporation, thought the Secretary of the Treasury right in the direction that his duty admonished him to give in removing the public funds from the bank; and felt it to be his duty to correct as

country.

[SENATE.]

Senate, and went to a com-
 mitch it might not return in time
 at this session. It had been
 circumstances which attracted
 disclosed information which de-
 pown. It was called for early
 crisis of the alarm operations,
 ent assertions that the answer to
 rove the distress and the suffer-
 ry. It was confidently asserted
 ry of the Treasury had over-
 venues of the year; that there
 falling off—a decline—a bank-
 confidence was destroyed—enter-
 industry paralyzed—commerce
 the direful act of one man, in
 had changed the face of the
 scene of unparalleled prosperity
 unparalleled desolation! that the
 tude, the lake a desert waste of
 can without ships, the commer-
 cited, silent, and sad; orders for
 tanded; foreign purchases stop-
 he answer of the Secretary would
 a showing the falsity of his own
 the great decline in the revenue
 is of the country. Such were
 and predictions under which the
 and to which the public attention
 every device of theatrical dec-
 this floor. Well, the answer
 cretary sends in his report, with
 it called for. It is a report to
 ot's heart rejoice! full of high
 facts; replete with rich infor-
 nant with evidences of nation-
 How is it received—how re-
 who called for it? With down-
 wordless tongues! A motion
 stop the reading! to stop the
 a report! called for under such
 while whole days are given up
 monotonous, tautologous, and
 ons of distress memorials, the
 n speeches, and the thousandth
 ame work, without emendation
 All these can be read, and print-
 ed with studied eulogium, and
 ent out to the people, freighted
 id; but this official report of the
 e Treasury upon the state of
 es, and of their own commerce,
 order of the Senate, is to be
 unwelcome and worthless in-
 ed without a word—not even
 ut upon a motion—disposed of
 yes voted for the death of Louis
mort sans phrase! death, with-
 he, Mr. B., did not mean to suf-
 be despatched in this uncere-
 ompendious style. It had been
 given to the people, and the
 ear of it. It was not what was
 is what is true, and what will
 t of every patriot in America.
 for Mr. Taney; the diggers of

the pit have fallen into it; the fault is not his; and the sooner they clamber out, the better for themselves. The people have a right to know the contents of this report, and know them they shall; and if there is any man in this America whose heart is so constructed as to grieve over the prosperity of his country, let him prepare himself for sorrow; for the proof is forthcoming, that never, since our America had a place among nations, was the prosperity of the country equal to what it is at this day!

Mr. B. then requested the Secretary of the Senate to send him the report, and comparative statement; which being done, Mr. B. opened the report, and went over the heads of it to show that the Secretary of the Treasury had not over-estimated the revenue of the year; that the revenue was, in fact, superior to the estimate; and that the importations would equal, if not exceed, the highest amount that they had ever attained.

To appreciate the statements which he should make, Mr. B. said it was necessary for the Senate to recollect that the list of dutiable articles was now greatly reduced. Many articles were now free of duty, which formerly paid heavy duties; many others were reduced in duty; and the fair effect of these abolitions and reductions would be a diminution of revenue even without a diminution of imports; yet the Secretary's estimate, made at the commencement of the session, was more than realized, and showed the gratifying spectacle of a full and overflowing treasury, instead of the empty one which had been predicted; and left to Congress the grateful occupation of further reducing taxes, instead of the odious task of borrowing money, as had been so loudly anticipated for six months past. The revenue accruing from imports in the first quarter of the present year, was 5,844,640 dollars; the payments actually made into the treasury from the custom-houses for the same quarter, were 4,435,386 dollars; and the payments from lands for the same time, were 1,898,206 dollars. The two first months of the second quarter were producing in a full ratio to the first quarter; and the actual amount of available funds in the treasury on the 9th day of this month, was eleven millions two hundred and forty-nine thousand four hundred and twelve dollars. The two last quarters of the year were always most productive. It was the time of the largest importations of foreign goods which pay most duty—the woollens—and the season, also, for the largest sale of public lands. It is well believed that the estimate will be more largely exceeded in those two quarters than in the two first; and that the excess for the whole year, over the estimate, will be full two millions of dollars. This, Mr. B. said, was one of the evidences of public prosperity which the report contained, and which utterly contradicted the idea of distress and commercial embarrassment which had been propagated, from this chamber, for the last six months.

Mr. B. proceeded to the next evidence of

commercial prosperity; it was the increased importations of foreign goods. These imports, judging from the five first months, would be seven millions more than they were two years ago, when the Bank of the United States had seventy millions loaned out; and they were twenty millions more than in the time of Mr. Adams's administration. At the rate they had commenced, they would amount to one hundred and ten millions for the year. This will exceed whatever was known in our country. The imports, for the time that President Jackson has served, have regularly advanced from about 74,000,000 to 108,000,000. The following is the statement of these imports, from which Mr. B. read:

1829	-	-	-	\$74,492,537
1830	-	-	-	70,876,930
1831	-	-	-	103,191,134
1832	-	-	-	101,029,266
1833	-	-	-	108,118,311

Mr. B. said that the imports of the last year were greater in proportion than in any previous year; a temporary decline might reasonably have been expected; such declines always take place after excessive importations. If it had occurred now, though naturally to have been expected, the fact would have been trumpeted forth as the infallible sign—the proof positive—of commercial distress, occasioned by the fatal removal of the deposits. But, as there was no decline, but, on the contrary, an actual increase, he must claim the evidence for the other side of the account, and set it down as the proof positive that commerce is not destroyed; and, consequently, that the removal of the deposits did not destroy commerce.

The next evidence of commercial prosperity which Mr. B. would exhibit to the Senate, was in the increased, and increasing, number of ship arrivals from foreign ports. The numbers of arrivals for the month of May, in New York, was 223, exceeding by 86 those of the month of April, and showing not only a great, but an increasing activity in the commerce of that great emporium—he would not say of the United States, or even of North America—but he would call it that great emporium of the two Americas, and of the New World; for the goods imported to that place, were thence distributed to every part of the two Americas, from the Canadian lakes to Cape Horn.

A third evidence of national prosperity was in the sales of the public lands. Mr. B. had, on a former occasion, adverted to these sales, so far as the first quarter was concerned; and had shown, that instead of falling off, as had been predicted on this floor, the revenue from the sales of these lands had actually doubled, and more than doubled, what they were in the first quarter of 1833. The receipts for lands, for that quarter, were \$668,526; for the first quarter of the present year they were \$1,898,206; being two to one, and \$80,000 over! The receipts for the two first months of the second quarter, were also known, and would carry the revenue from lands, for the

JUNE, 1834.]

Official Revenue Statements—Prosperity of the Country.

[SENATE.]

first five months of this year, to two millions of dollars; indicating five millions for the whole year; an enormous amount, from which the people of the new States ought to be, in some degree, relieved, by a reduction in the price of lands. Mr. B. begged, in the most emphatic terms, to remind the Senate, that at the commencement of the session, the sales of the public lands were selected as one of the criterions by which the ruin and desolation of the country were to be judged. It was then predicted, and the prediction put forth with all the boldness of infallible prophecy, that the removal of the deposits would stop the sales of the public lands; that money would disappear, and the people have nothing to buy with; that the produce of the earth would rot upon the hands of the farmer. These were the predictions; and if the sales had really declined, what a proof would immediately be found in the fact to prove the truth of the prophecy, and the dire effects of changing the public moneys from one set of banking-houses to another! But there is no decline; but a doubling of the former product; and a fair conclusion thence deduced that the new States, in the interior, are as prosperous as the old ones, on the seacoast.

Having proved the general prosperity of the country, from these infallible data—flourishing revenue—flourishing commerce—increased arrivals of ships—and increased sales of public lands,—Mr. B. said that he was far from denying that actual distress had existed. He had admitted the fact of that distress heretofore, not to the extent to which it was charged, but to a sufficient extent to excite sympathy for the sufferers; and he had distinctly charged the whole distress that did exist to the Bank of the United States, and the Senate of the United States—to the screw-and-pressure operations of the bank, and the alarm speeches in the Senate. He had made this charge; and made it under a full sense of the moral responsibility which he owed to the people, in affirming any thing from this elevated theatre. He had, therefore, given his proofs to accompany the charge; and he had now to say to the Senate, and through the Senate, to the people, that he found new proofs for that charge in the detailed statements of the accruing revenue, which had been called for by the Senate, and furnished by the Secretary of the Treasury. Mr. B. said he must be pardoned for repeating his request to the Senate, to recollect how often they had been told that trade was paralyzed; that orders for foreign goods were countermanded; that the importing cities were the pictures of desolation; their ships idle; their wharves deserted; their mariners wandering up and down. Now, said Mr. B., in looking over the detailed statement of the accruing revenue, it was found that there was no decline of commerce, except at places where the policy and power of the United States Bank was predominant! Where that power or policy was predominant, revenue declined; where it was not predominant, or the

policy of the bank not exerted, the revenue increased, and increased fast enough to make up the deficiency at the other places. Mr. B. proceeded to verify this statement by a reference to specified places. Thus, at Philadelphia, where the bank holds its seat of empire, the revenue fell off about one-third; it was 797,316 dollars for the first quarter of 1833, and only 542,498 for the first quarter of 1834. At New York, where the bank has not been able to get the upper hand, there was an increase of more than 120,000 dollars; the revenue there for the first quarter of 1833, was 3,122,166; for the first of 1834 it was 3,249,786 dollars. At Boston, where the bank is again predominant, the revenue fell off about one-third; at Salem, Mass., it fell off four-fifths. At Baltimore, where the bank has been defeated, there was an increase in the revenue of more than 70,000 dollars. At Richmond, the revenue was doubled from 12,084 dollars to 25,810 dollars. At Charleston, it was increased from 69,503 dollars to 102,810 dollars. At Petersburg, it was slightly increased, and throughout all the region south of the Potomac there was either an increase or the slight falling off which might result from diminished duties without diminished importations. Mr. B. said he knew that bank power was predominant in some of the cities to the South; but he knew also that the bank policy of distress and oppression had not been practised there. That was not the region to be governed by the scourge. The high mettle of that region required a different policy: gentleness, conciliation, coaxing! If the South was to be gained over by the bank, it was to be done by favor, not by fear. The scourge, though so much the most congenial to the haughty spirit of the moneyed power, was only to be applied where it would be submitted to; and, therefore, the whole region south of the Potomac, was exempted from the lash. Mr. B. paused to fix the attention of the Senate upon these facts. Where the power of the bank enabled her to depress commerce and sink the revenue, and her policy permitted her to do it, commerce was depressed, and the revenue was sunk, and the prophecies of the distress orators were fulfilled; but where her power did not predominate, or her policy required a different course, commerce increased, and the revenue increased; and the result of the whole is, that New York and some other anti-bank cities, have gained what Philadelphia and other bank cities have lost; and the federal Treasury is just as well off, as if it had got its accustomed supply from every place.

This view of facts, Mr. B. said, must fasten upon the bank the odium of having produced all the real commercial distress which has been felt. But at one point, at New Orleans, there was further evidence to convict her of wanton and wicked oppression. It was not in the Secretary's reports, but it was in the weekly returns of the bank; and showed that in the beginning of March, that institution had carried off from

her branch in New Orleans, the sum of about 800,000 dollars in specie, which it had been collecting all the winter by a wanton curtailment, under the pretext of supplying the amount of the deposits taken from her at that place. These 800,000 dollars were collected from the New Orleans merchants in the very crisis of the arrival of western produce. The merchants were pressed to pay debts, when they ought to have been accommodated with loans. The price of produce was thereby depressed; the whole West suffered from the depression; and now it is proved that the money was not wanted to supply the place of the deposits, but was sent to Philadelphia, where there was no use for it, the bank having more there than she can use; and that the whole operation was a wanton and wicked measure to coerce the West to cry out for a return of the deposits, and a renewal of the charter, by attacking their commerce in the market of New Orleans. This fact, said Mr. B., would have been proved from the books of the bank, if they had been inspected. Failing in that, the proof was intelligibly found in the weekly returns.

Mr. B. had a further view to give of the prosperity of the country, and further evidence to show that all the distress really suffered was factitious and unnatural. It was in the great increase of money in the United States during the last year and a half. He spoke of money; not paper promises to pay money, but the thing itself—real gold and silver—and affirmed that there was a clear gain of from eighteen to twenty millions of specie, within the time that he had mentioned. He then took up the custom-house returns to verify this important statement, and to let the people see that the country was never so well off for money as at the very time that it was proclaimed to be in the lowest state of poverty and misery. He first showed the imports and exports of specie and bullion for the year ending the 30th of September, 1833. It was as follows:

Year ending September 30, 1833.

	Imports.	Exports.
Gold bullion,	\$48,267	\$26,775
Silver do.	297,840	
Gold coin,	568,585	495,890
Silver do.	6,160,876	1,722,196
	<u>\$7,070,868</u>	<u>\$2,244,861</u>

Mr. B. having read over this statement, remarked upon it, that it presented a clear balance of near five millions of specie in favor of the United States on the first day of October last, without counting at least another million which was brought by passengers, and not put upon the custom-house books. It might be assumed, he said, that there was a clear accession of six millions of specie to the money of the United States on the morning of that very day which had been pitched upon by all the distress orators in the country to date the ruin and desolation of the country.

Mr. B. then showed a statement of the imports and exports of specie and bullion, from the first of October, 1833, to the 11th of June, instant. It was as follows:

From October 1st to June 11th.

	Imports.	Exports.
Gold bullion,	\$304,491	\$11,177
Silver do.	256,617	1,376
Gold coin,	410,907	87,570
Silver do.	10,156,909	898,638
	<u>\$11,128,924</u>	<u>\$998,761</u>

Mr. B. remarked, upon this statement, that it presented a clear gain of more than ten millions of dollars. He was of opinion that two millions ought to be added for sums not entered at the custom-house, which would make twelve millions; and added to the six millions of 1833, would give eighteen millions of specie of clear gain to the country in the last twenty months. This, he said, was prosperity. It was wealth itself; and besides, it showed that the country was not in debt for its large importations, and that a larger proportion of foreign imports now consisted of specie than was ever known before. Mr. B. particularized the imports and exports of gold; how the former had increased, and the latter diminished, during the last few months; and said that a great amount of gold, both foreign and domestic, was now waiting in the country to see if Congress would raise gold to its fair value. If so raised, this gold would remain, and enter into circulation; if not, it would immediately go off to foreign countries, for gold was not a thing to stay where it was undervalued. He also spoke of silver, and said that it had arrived without law, but could not remain without law. Unless Congress passed an act to make it current, and that at full value as money, and not at the mint value, as bullion, it would go off.

Mr. B. recapitulated the evidences of national prosperity—increased imports—revenue from customs exceeding the estimate—increased revenue from public lands—increased amounts of specie—above eleven millions of available funds now in the treasury—domestic and foreign commerce active—the price of produce and property fair and good—labor everywhere finding employment and reward—more money in the country than ever was in it at any one time before—the numerous advertisements for the purchase of slaves, in the papers of this city, for the Southern market, which indicated the high price of Southern products—and affirmed his conscientious belief, that the country was more prosperous at this time than at any period of its existence; and inveighed in terms of strong indignation against the arts and artifices which, for the last six months, had disturbed and agitated the country, and done serious mischief to many individuals. He regretted the miscarriage of the attempt to examine the Bank of the United States, which he believed would have completed the proof against that institution for its share

JUNE, 1834.]

Official Revenue Statements—Prosperity of the Country.

[SENATE.]

in getting up an unnatural and factitious scene of distress, in the midst of real prosperity. But he did not limit his invective to the bank, but came directly to the Senate, and charged a full share upon the theatrical distress speeches, delivered upon the floor of the Senate, in imitation of Volney's soliloquy over the ruins of Palmyra. He repeated some passages from the most affecting of these lamentations over the desolation of the country, such as the Senate had been accustomed to hear about the time of the New York and Virginia elections. "The canal a solitude! The lake a desert waste of waters! That populous city lately resounding with the hum of busy multitudes, now silent and sad! A whole nation, in the midst of unparalleled prosperity, and Arcadian felicity, suddenly struck into poverty, and plunged into unutterable woe, by the direful act of one man!" Such, said Mr. B., were the lamentations over the ruins, not of the Tadmor in the desert, but of this America, whose true condition you have just seen exhibited in the faithful report of the Secretary of the Treasury. Not even the "baseless fabric of a vision" was ever more destitute of foundation, than those lamentable accounts of desolation. The lamentation has ceased; the panic has gone off; would to God he could follow out the noble line of the poet, and say, "leaving not a wreck behind." But he could not say that. There were wrecks! wrecks of merchants in every city in which the bank tried its cruel policy, and wrecks of banks in this District, where the panic speeches fell thickest and loudest upon the ears of an astonished and terrified community!

But, continued Mr. B., the game is up; the alarm is over; the people are tired of it; the agitators have ceased to work the engine of alarm. A month ago he had said it was "the last of pea-time" with these distress memorials; he would now use a bolder figure, and say, that the Secretary's report, just read, had expelled forever the ghost of alarm from the chamber of the Senate. All ghosts, said Mr. B., are afraid of the light. The crowing of the cock—the break of day—remits them all, the whole shadowy tribe, to their dark and dreary abodes. How then can this poor ghost of alarm, which has done such hard service for six months past, how can it stand the full light, the broad glare, the clear sunshine of the Secretary's report? "Alas, poor ghost!" The shade of the "noble Dane" never quits the stage under a more inexorable law than the one which now drives thee away! This report, replete with plain facts and luminous truths, puts to flight the apparition of distress, breaks down the whole machinery of alarm, and proves that the American people are, at this day, the most prosperous people on which the beneficent sun of heaven did ever shine!

Mr. B. congratulated himself that the spectre of distress could never be made to cross the Mississippi. It made but slow progress anywhere in the Great Valley, but was balked at

the King of Floods. A letter from St. Louis informed him that an attempt had just been made to get up a distress meeting in the town of St. Louis, but without effect. The officers were obtained, and according to the approved rule of such meetings, they were converts from Jacksonism; but there the distress proceedings stopped, and took another turn. The farce could not be played in that town. The actors would not mount the stage.

Mr. B. spoke of the circulation of the Bank of the United States, and said that its notes might be withdrawn without being felt or known by the community. It contributed but four millions and a quarter to the circulation at this time. He verified this statement by showing that the bank had twelve millions and a quarter of specie in its vaults, and but sixteen millions and a half of notes in circulation. The difference was four millions and a quarter; and that was the precise amount which that gigantic institution now contributed to the circulation of the country! Only four millions and a quarter. If the gold bill passed, and raised gold sixteen to one, there would be more than that amount of gold in circulation in three months. The foreign coin bill, and the gold bill, would give the country many dollars in specie, without interest, for each paper dollar which the bank issues, and for which the country pays so dearly. The dissolution of the bank would turn out twelve millions and a quarter of specie, to circulate among the people; and the sooner that is done the better it will be for the country.

The bank is now a nuisance, said Mr. B. With upwards of twelve millions in specie and less than seventeen millions in circulation, and only fifty-two millions of loans, it pretends that it cannot lend a dollar, not even to business men, to be returned in sixty days; when, two years ago, with only six millions of specie and twenty-two millions of circulation, it ran up its loans to seventy millions. The president of the bank then swore that all above six millions of specie was a surplus! How is it now with near double as much specie, and five millions less of notes out, and twelve millions less of debt? The bank needs less specie than any other banking institution, because its notes are receivable, by law, in all federal payments; and from that circumstance alone would be current, at par, although the bank itself might be wholly unable to redeem them. Such a bank is a nuisance. It is the dog in the manger. It might lend money to business men, at short dates, to the last day of its existence; yet the signs are for a new pressure; a new game of distress for the fall elections in Pennsylvania, New York, and Ohio. If that game should be attempted, Mr. B. said, it would have to be done without excuse, for the bank was full of money; without pretext, for the deposit farce is over; without the aid of panic speeches, for the Senate will not be in session.

Mr. B. said, that among the strange events

which took place in this world, nothing could be more strange than to find, in our own country, and in the 19th century, any practical illustration of the ancient doctrine of the metempsychosis. Stranger still, if that doctrine should be so far improved, as to take effect in soulless bodies; for, according to the founders of the doctrine, the soul alone could transmigrate. Now, corporations had no souls; that was law, laid down by all the books; and of all corporations, moneyed ones, especially, and above all, the Bank of the United States, was most soulless. Yet, the rumor was, that this bank intended to attempt the operation of effecting a transfer of her soul; and after submitting to death in her present form, to rise up in a new one. Mr. B. said he, for one, should be ready for the old sinner, come in the body of what beast it might. No form should deceive him, not even if it condescended, in its new shape, to issue from Wall Street, instead of Chestnut!

A word more, and Mr. B. was done. It was a word to those gentlemen whose declarations, many ten thousand times issued from this floor, had deluded a hundred thousand people to send memorials here, certifying what those gentlemen so incontinently repeated, that the removal of the deposits had made the distress, and nothing but the restoration of the deposits, or the renewal of the charter, could remove the distress! Well! the deposits are not restored, and the charter is not renewed; and yet the distress is gone! What is the inference? Why that gentlemen are convicted, and condemned, upon their own argument! They leave this chamber to go home, self-convicted upon the very test which they themselves have established; and after having declared, for six months upon this floor, that the removal of the deposits made the distress, and nothing but their restoration, or the renewal of the bank charter, could relieve it, and that they would sit here until the dog-days, and the winter solstice, to effect this restoration or renewal; they now go home in good time for harvest, without effecting the restoration or the renewal; and find everywhere, as they go, the evidences of the highest prosperity which ever blessed the land. Yes! repeated and exclaimed Mr. B. with great emphasis, the deposits are not restored—the charter is not renewed—the distress is gone—and the distress speeches have ceased! No more lamentation over the desolation of the land now; and a gentleman who should undertake to entertain the Senate again in that way, in the face of the present national prosperity—in the face of the present report from the Secretary of the Treasury, would be stared at, as the Trojans were accustomed to stare at the frantic exhibitions of Priam's distracted daughter, while vaticinating the downfall of Troy in the midst of the heroic exploits of Hector.

Mr. WEBSTER here made some remarks.

Mr. CHAMBERS said, that when lessons were administered on this floor avowedly for the

edification of the American people, it might not be amiss to qualify general remarks by proper limitations and restrictions to conform to the actual condition of the subject. Now, sir, if any portion of the American people shall be led to suppose that any thing in the report of the Secretary now read is calculated to show the inoffensive character of the late Executive measures, he would say they would be led to a conclusion utterly fallacious.

I am one of those, Mr. President, by whom predictions have been made, as well in regard to the ruinous consequences of the Executive conduct as to its probable effect on the revenue. I had the honor to be among the first, perhaps the first, on this floor, to venture the result of a feeble judgment as to the probable consequences upon the importations and the revenue. Nothing in this report lessens, in the slightest degree, my confidence in the opinions heretofore advanced. How should it? The report informs us of the amount of importations, and the accruing revenue, for the first quarter of the present year. I so understand it, from hearing a part of it read at your table: no other means have been afforded me to ascertain its contents, much less to prepare full notes for a speech upon the report, as the Senator from Missouri (Mr. BENSON) seems to have done. Well, sir, does any thing in the character or amount of importations in the first three months of this year prove any fact in regard either to the effect of the Executive measures, or to the accuracy of our predictions? Most certainly not. Every man who knows any thing of the subject, knows well that there are two principal seasons of importations; one in the spring for the demand and consumption of spring and summer, and another in the summer or early fall, for the demand and consumption of fall and winter. We all know that the goods thus imported are ordered a considerable time before they arrive in this country; that they are made, manufactured to order, before they are shipped from abroad. If, then, these importations mentioned in the report were ordered in the usual way of trade, in season for the orders to have been received abroad, the goods purchased and shipped, and to arrive in the United States before the first of May—and of these facts no doubt could be entertained—it was evident they afforded not the smallest proof whatever of the influence of measures which operated at a much later period. It is idle to attempt to apply any prediction made here to the period embraced in this report. Mr. C. said he happened to have in his drawer one of those letters upon which he had ventured the opinion expressed; and to show how far it can be tortured into a speculation upon the state or amount of importations ending on the first of April, he would read an extract. The letter says, "The drygood merchants have not (they say) ordered more than one-half their usual supply of goods for the fall. This will effect the revenue of this and the next year,

cordially to detest, any measure of Executive, as its course in United States Bank. They feel writhed under them; and if any district in the United States intelligent and equally honest election, the President will be friend returned to the House of Representatives.

Mr. President, to go over the bank distress or panic-speech tried tones of assault upon the understood. One day the income, which in a little month will be at the Executive foot-stool; a fantastic monster, which, like the object of our idolatry, now is efficient, and capable of nothing but tricks might effect; and now the whose resistless power would crush the nation, and bring its subjection, as it had brought distress and ruin. The history of the nation, happily for those who have at truth, is contained in its acts. The extent of loans and expansion and contraction, may be authentic proof.

Mr. President modified his motion to refer to the Committee on Finance, and moved that the bill be laid on the table and printed, as agreed to.

Foreign Silver Coins.

Mr. WEBSTER, the Senate proposed consideration of the bill from the Committee on Finance to regulate foreign silver coins.

Mr. Webster said that this was a measure of great importance to the commercial community, and that there would be no delay in passing it. He had some amendments, which the Committee on Finance had proposed, and he would briefly state. The bill, as it passed the House, did not regulate the weight of the coins.

He had received a communication from the director of the mint, and also from the committee of the other House, and he believed they were right in the weight of coins should be regulated. The first amendment, therefore, was to make the limitation of the weight of 415 grains; the next to make the weight of the French five-franc coins.

The amendments were agreed to.

Mr. Webster then proposed to be had another amendment to be had. It had been suggested to him by the committee of the mint; it was on fixing the weight of the South American dollar. He recollected that, by the bill, the weight of the dollar was fixed at 150 grains, or of not less than 150 grains, fifteen pennyweights, and of pure silver, in the troy pound. The weight of standard silver, at one hundred cents and one-tenth of a cent. Now it was proposed to strike

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Signers to Distress Memorials.

[JUNE, 1834.]

out these 12 grains, which would still leave the South American dollar of the value of one hundred cents; but if the twelve grains were retained, it would exclude a great many of the South American coins which were worth the American dollar. He therefore moved to strike out the twelve grains; which was agreed to.

The amendments were then ordered to be engrossed, and the bill passed to its third reading.

Compensation to Mr. Potter.

The resolution submitted by Mr. WRIGHT, to compensate the honorable Elisha R. Potter, for his attendance while claiming a seat in the Senate, under the authority of a certificate of the Governor of Rhode Island, was taken up.

Mr. BISS moved to strike out the words "is entitled to receive his compensation," and to insert in lieu thereof, "ought, under the circumstances, to be paid;" which

Mr. WRIGHT accepted as an amendment.

Mr. CLAY then moved to refer the resolution to the Judiciary Committee, and the motion was agreed to.

THURSDAY, JUNE 19.

Signers to Distress Memorials—Additional Enumeration—Consolidated Numbers.

The CHAIR communicated an additional report from the Secretary of the Senate, made in compliance with a resolution of the Senate, showing the number of signers to the various memorials presented to the Senate of the United States, on the subject of the national finances, and the expediency of a national bank, for and against the measures of the Executive on these subjects; and, on motion of Mr. CLAY, to print them for the use of the Senate.

Mr. FORSYTH asked for the reading of the Secretary's report; and the report having been read,

Mr. F. said his object was to ascertain from the Secretary whether any attempt had been made to purge these memorials, to learn how many signatures were to be found on different sides. Memorials and counter-memorials had been sent in, in both of which, in many instances, the same names were to be found. He recollected the many memorials from Philadelphia, coming from classes, separated into merchants, mechanics, professional and business men, and young men also, like the stage-players, where one man represents several different characters. There was another circumstance also to be taken into consideration, and that was, the natural disposition of human nature to complain. Those who were satisfied with the present state of things were not so apt to come before Congress with complaints as those in the opposition, whose object is to magnify imaginary grievances. The largest, meeting, he believed, from which a memo-

rial had come, was the one at Baltimore, and that was against the bank. Mr. F. said he would not, however, oppose the printing, though he believed it perfectly unnecessary. The Senate might take the question, and decide as it pleased.

Mr. CLAY said it was somewhat remarkable that the honorable Senator, though he thought the petitions and memorials which had been presented to the Senate were no test of public opinion, and were of very little value, should have taken so much pains to blunt the effect of the hundred and fifty thousand names of individuals who had solicited relief. If it was worth nothing, the honorable Senator had better reserve his speech for a more suitable occasion than the present. What! was the right of petition worth nothing? Was it of no consequence to honorable Senators that thousands of their fellow-citizens should send to them petitions and memorials, complaining of an act of Executive authority? Why, the honorable member had said, that there were a great many of his friends who would have come here, but they were apprehensive lest they should find unwilling ears. Now who could believe it! Why, then, did they not go to the House? What sort of ears would they find there? Honorable Senators knew, that, in point of fact, memorials had generally been in duplicate, and the same number had been sent here as to the other House. Why not go there? But the honorable member had said there were many instances in which the names of those whose petitions had been presented here did not appear. So there were, and he (Mr. C.) wished that all of them could be obtained. In proof of what the honorable Senator had said, he alluded to the Philadelphia meeting, which was attended by 15,000, and the Baltimore meeting, consisting of 6,000. Now, he (Mr. C.) believed that there was a much less number at Baltimore, and a greater at Philadelphia. That, said Mr. C., would make our number 165,000, and the honorable Senator's 23,000.

With regard to the *figurants* of this drama, they are confined to the gentleman's own theatre. In one of the memorials from New York were to be found the names of John Doe and Richard Roe, and also the worthy name of yourself, sir, (meaning the Vice President) who could not possibly be suspected of signing such a memorial, and certainly a great many others that were improperly affixed to petitions. Purge the memorials! The Senator might as well try to purge the General Post Office. It could not be done: he (Mr. C.) wished it could. Why, if the memorials were purged, the honorable gentleman's 17,000 names would be melted down to 6,000. He (Mr. C.) was glad to see that, worthless as the names were alleged to be by the honorable Senator, he was willing to allow them to be printed. Mr. C. begged to tender him his most profound acknowledgments, and trusted that the names would be printed. After the order for printing should have been

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the contractors to conform their
standard of a similar work on

The contract only gives to the price of printing and the clerk-
 ened by the contractors that
 contemplated an extension of the
 amount, as had been charged, of
 lion of dollars. Under the lim-
 by the Committee on Finance,
 that the work can be scarcely
 it will be indispensable to ex-
 cessary material, and superflu-
 Only such documents as are
 a collection of materials for
 of this country, can now be

Georgia, said he should vote to
ause from the bill, and should
st the amendment of his col
ought there was no more authori
t to set up a book shop, than to
r's shop, to buy books for mem
y bonnets for ladies. He refer
stitutional powers of Congress,
that from none of them was this
ed. He expressed his belief that
nthesized, would cost the Gov
or four millions of dollars. He
t intention to throw censure on
e, but was of opinion that the
oneously and unconstitutionally
nd that the Secretary of State
in.

Q: Viewing, as I do, the practice members of Congress with books expense to be an enormous abuse, if I had a seat in this body, and could get an opportunity of recording, voted against every proposition to them. My first attempt to obtain this body against this practice two years ago, was scouted as "parsimony," by one Senator near (SINGMASTER.) I then opposed the book, published for the benefit of the United States, containing what is a legislative history of the rise of that institution, in which many important speeches and proceedings are fitted. The bank book, it is published at the instance of the which liberally paid for its share of that the new members of the press as well as of the last, have all with the same book; and I press any books shall remain in the publishers, all future new members be furnished. That book, made from newspapers, may be really similar books are sold, from one The price paid for every book less is five dollars.

that the Documentary History of the State of New York, by E. Clair Clarke and Peter Force, by an act of Congress, and for the consideration appropriates

thirty-five thousand dollars, will cost a vast sum of money—half a million of dollars is the lowest calculation, and some say that it may cost a million and a half. An attempt is made to make the late Secretary of State (Mr. Livingston) responsible for the rate and enormity of this contract. Rather should the blame go to the Congress which passed the law than to Mr. Livingston. I well remember when that law passed this body.

There were two propositions considered at the same time, both of them, I believe, reported on, and sanctioned by the Library Committee, for extensive jobs of printing. One was, on the proposal of Duff Green to publish a stereotype edition of the Laws and Treaties of the United States, at the rate of two dollars and fifty cents per volume; and the other, Clarke and Force's proposal to print and furnish the Documentary History of the Revolution. Both propositions were hastily urged through the Senate. Duff Green's job of stereotyping the Laws (which was arrested in the House of Representatives) would have cost the Treasury from one to two hundred thousand dollars; other printers had proposed to perform the work at less than one-half of his price. The mention of this fact appeared to have no effect on the vote of the Senate. I asked for the question to be taken by the yeas and nays—it was so taken, and you will find but seven Senators (Benton, Black, Dickerson, Foot, Hill, Robinson, and Wilkins) voting to sustain me—twenty-five voting against my motion to lay the bill on the table.

Immediately after this, the bill making provision for the publication of the Documentary History of the Revolution was taken up. Mr. Foot, of Connecticut, was in the chair. I asked for the yeas and nays on the question, Shall it be engrossed and read a third time? Without waiting to call the attention of Senators to the question, the chairman declared the proposition for the yeas and nays was not sustained; and both bills were considered in Committee of the Whole, reported, and passed on by the Senate, in less time than I have been speaking about it. Ever since that time I have deemed it a work of supererogation in me to oppose any proposition for printing or furnishing books for the benefit of printers in this District—and have contented myself with giving a silent vote against them whenever I could obtain an opportunity.

Mr. Livingston ought not to be blamed for the contract made with Clarke and Force. The fault is in the law, not in the contract. How could Mr. Livingston limit the number of volumes, when the law was without limit? he was taken advantage of by the contractors—he could not be supposed to know that an increase of the number of copies, or the increase of the size of the volumes, would make an enormous increase of the price. Clarke and Force knew well enough how they were cheating the public, as well when they smuggled the bill through the two Houses of Congress, as when they made

the contract with the Secretary of State. Why did Congress legislate in the dark on this subject? Why did they pass a law requiring the Secretary of State to contract for an unlimited amount of printing, at double the price which the same printing could be done for in any other city of the Union? This price was not fixed by Mr. Livingston. A Secretary of State (Mr. CLAY) under the last administration, made the first contract for publishing Diplomatic Correspondence, having found a resolution of Congress, which passed several years before, authorizing, or supposed to authorize it; and the contractor (Mr. Jared Sparks) for the publication of a few volumes, sold his privilege to a second person for the trifling profit of ten thousand dollars! The price of that first contract is made by law the basis of the contract for the Documentary History. Mr. Livingston made the contract as the law required him; he could not limit the number of volumes, because the law did not limit it.

It is now understood that the contractors are willing to limit themselves. The price of publishing a single volume of fifteen hundred copies, is calculated at 22,900 dollars, and other expenses will make it 25,000 dollars. The contractors will limit themselves to twenty folio volumes as the minimum; and these twenty folio volumes are to cost 500,000 dollars! Of what value, think you, Mr. President, will be a Documentary History of the Revolution of twenty folio volumes? It would be as ninety-nine grains of wheat in one hundred bushels of chaff.

The extra printing—by extra printing, I mean not any portion of that printing daily ordered by the Senate, consisting of distress petitions, with the names; other petitions and memorials, reports on the Post Office, &c., constituting what is annually published in several volumes, as the Journal and Documents—the extra printing of books merely for the purpose of furnishing members of Congress, voted by the Senate at the last session alone, would amount, if all the propositions had succeeded, to a greater sum of money than the whole expense of a single year of Mr. Jefferson's administration. Besides the enormous job of Clarke and Force, and the vote on the proposition to stereotype the Laws, there was another job voted to Duff Green for printing the Land Laws, which is introduced in the present appropriation bill, amounting to forty-two thousand nine hundred and sixty dollars; and a resolution passed for the benefit of Gales and Seaton, allowing them further to extend their compilation of Congressional Documents eight volumes folio. If these eight folio volumes cost as much as those contracted for by Clarke and Force—and as yet I have, after diligent inquiry, been unable to ascertain what Gales and Seaton are paid for this work—that additional job to them will amount to two hundred thousand dollars. It is true the contract with them is only for seven hundred and fifty copies instead of fifteen hundred; but I understand

JUNE, 1834.]

General Appropriation Bill—Purchase of Books for Members.

[SENATE.]

they publish an additional seven hundred and fifty copies, to supply members of Congress hereafter. Already has the supply for Congress run out; and at this session a resolution has passed, authorizing the Secretary to purchase more for the supply of the new members of the Senate.

I may safely say that the books furnished to members of Congress (and each new member at the present session has already been supplied, to the number of about seventy volumes) cost twice, and in some instances four times the price of books of equal size and superior value, that are to be obtained in the most of our cities and towns. Gladly would I return every book I have received and pay for their transport back to the seat of Government, if the money could be returned to the Treasury, which has been abstracted to procure them. These books are held up to new members as an appeal to their cupidity. It is said at once that all the old members have received them, and that the new members ought to claim them of course. And so soon as you receive a copy of the common plunder, so soon, in the estimation of some gentlemen, are you precluded from voting against others or yourself receiving more of that plunder. I found a portion of these books tied up in bundles and left at my rooms, before I took my oath or seat in this hall, at the first session of the last Congress. If I had been a non-committal before, in relation to the purchase of books, the intention was, that I would not set out in my Senatorial career a non-committal; and the language to me was, immediately, "Having partaken of the plunder, you have no right to complain of the robbery."

Mr. CHAMBERS replied to the remarks of Mr. KING. He considered the time as gone by, when the constitutionality of such acts was denied. He adverted again to the value of the work, the labor which had already been bestowed upon it, the researches which had been carried on, the intelligence of those who conducted them, and the interest which the work was calculated to produce in the public mind. The price for which this work was to be furnished, was not at all adequate to the importance and labor of the work.

Mr. MANGUM moved to strike out, in the amendment to the amendment, the words "to remunerate," and to insert the words "to settle with," and to strike out \$15,000 and insert \$20,000.

Mr. FORSYTH accepted the amendment. He then explained that he did not mean to destroy the contract, but to leave that to be decided on when Congress should have more leisure.

Mr. PRESTON believed that the progress of the work did not at present justify a larger expenditure than that proposed by the amendment of the gentleman from Georgia, as now modified. He viewed the question as surrounded by great difficulties. He had doubts as to the constitutionality of authorizing the publication of works which did not inform Congress, or the

people, on the subject of the proceedings of Congress. The contract was under the law, passed by both Houses, and approved by the present Chief Magistrate, General Andrew Jackson. He regarded the terms of the law as loose and extraordinary. The contractors had now acquired vested rights, and he was not disposed to sanction any violation of the faith of the Government, because Congress was not amenable to any human tribunal. It was proper that there should be a strict examination of the contract, and it should be rendered specific as to the character of the matter, and the extent of the work. However high his opinion of individuals, he would not give a roving commission to any one to select materials, which would take their tone from his prejudices or party *liaisons*.

Mr. CLAY said that the Secretary of State had made one contract, and the Committee on Finance had made another. The first was an improvident one, but it was in the authority of the Secretary. He should have corrected the improvidence of Congress. The only restriction imposed by Congress, was as to the individuals to be contracted with, and that in the proviso that the price should not exceed that of the Diplomatic Correspondence. It had not been shown to have exceeded this stipulation. Congress ought to take their full share of blame, and not leave the whole on the Secretary. If the first contract was loose, the second was full of limitations. The contract now cannot exceed twenty volumes, an expense of 300,000 dollars, and a further provision that Congress may appoint an agent to supervise the publication. He asked, on what pretence the Senate could depart from their second contract. When the contractors agreed to the limitations of the committee, they fully expected to meet with no further difficulty; and it would not be doing justice to the contractors to violate this last contract, as well as the former. The expenditure would be 25,000 dollars a year, for perhaps six, eight, or ten years, and the work would be a very important one. The contract was an improvident one, and he had at first thought it would be well to get rid of it by paying 40,000 or 50,000 dollars. But as the contractors had liberally agreed to limitations, it was due to them to fulfil the second contract. If it should be hereafter said that useless documents were introduced, Congress could then arrest the appropriation. He expressed his hope that a useful lesson would be drawn from this case, and that improvident expenditures of this kind would hereafter be avoided.

Mr. FORSYTH modified his amendment, by inserting "proper accounting officers," instead of "Secretary of the Senate." He suggested that the second contract was not binding. He asked for the yeas and nays on the amendment.

Mr. LEXEN asked if this proposition would prevent the printing of the work.

Mr. FORSYTH said it would, except at the risk of the contractors.

Mr. LEXEN took the ground that Congress had

SENATE.]

Respect to Lafayette.

[JUNE, 1834.]

no right to violate a contract made by the Secretary of State, under their authority, because they had not a right to make such contract. He then read the law, to show the looseness of its provisions, and stated the illimitable power of selection which it conferred on the contractors. The value of such a work depended materially on the ability and the temper of those who executed it. He asked what would have been the effect, if Hume or Henry had been employed to write the Documentary History of the Stuarts, or Dr. Lingard to write the Documentary History of the Reformation? The Documentary History of the United States might be as well extended to two hundred volumes as limited to ten. It was the duty of the Secretary of State to have looked into the details and corrected the defectiveness of the law. Although this was a contract which ought not to have been made, it must not be violated. This was what the world would say, and what a chancellor would say.

Mr. CLAYTON expressed his general coincidence with the views of the gentleman from Virginia. He had no recollection of the bill which had been passed on this subject, and did not know even whether he voted for it or not. He did not perceive any ground for imputing fraud to the contractors, but he thought the law should not have been passed.

Mr. CALHOUN said that Congress had no authority to make the contract, and that it was *ab initio* void. He desired the contractors to be indemnified for their expense and labor; and he would vote for the amendment of the gentleman from Georgia.

Mr. EWING was of opinion that the contract was sacred, and must be fulfilled. If the Congress wash their hands of the contract, it must be got rid of entirely, and Congress would not be justified in voting a gift to the contractors. He thought the law an injudicious one, but he could not vote to abrogate or suspend the contract. Abrogation and suspension were similar powers, and Congress had no more right to abrogate than to suspend.

Mr. CALHOUN thought it a clear principle, that if injustice was done to an individual, Congress was bound to compensate him.

The question was then taken on the amendment of Mr. FORSYTH, and decided as follows:

YEAS.—Messrs. Bibb, Black, Brown, Calhoun, Forsyth, Grundy, Hendricks, Hill, Kane, King of Alabama, King of Georgia, Linn, McKean, Mangum, Morris, Preston, Robinson, Shepley, Tallmadge, Tipton, White, Wilkins, Wright—23.

NAYS.—Messrs. Bell, Benton, Chambers, Clay, Clayton, Ewing, Frelinghuysen, Kent, Leigh, Naudain, Poindexter, Porter, Prentiss, Robbins, Silsbee, Smith, Southard, Sprague, Tomlinson, Tyler, Wagaman, Webster—22.

Death of Lafayette.

A message was received from the House of Representatives, by Mr. Franklin, their Clerk, stating that the House had passed a joint reso-

lution providing for a joint committee to consider and report by what token of respect and affection it was proper for Congress to manifest the deep sensibility of the nation on the event of the decease of General LAFAYETTE.

Mr. WEBSTER said that he had prepared a resolution, which, as it happened, was almost in precisely the same words as that now received from the House. He should have presented it as soon as the Journal was read, had it not been intimated to him that, probably, a communication would be made to Congress, on this interesting occasion, by the President. In consequence of that intimation, he had forborne, for the moment, to propose the resolution; but, as the House had so promptly moved in the business, he rose to move that the Senate concur in the resolution, and appoint a committee on its part.

The motion having been agreed to, Mr. PORTDexter suggested that the committee consist of nine members.

Mr. FORSYTH named thirteen, the number of the old States, as the most appropriate. This last number was agreed to; and,

On motion of Mr. CHAMBERS, the committee was appointed by the Chair.

The following Message was received from the President of the United States:

To the Senate and House of Representatives:

The afflicting intelligence of the death of the illustrious LAFAYETTE has been received by me this morning.

I have issued the general order enclosed, to cause appropriate honors to be paid by the army and navy to the memory of one so highly venerated and beloved by my countrymen; and whom Providence has been pleased to remove so unexpectedly from the agitating scenes of life.

ANDREW JACKSON.

WASHINGTON, June 21, 1834.

On motion of Mr. FORSYTH, the Message was referred to the joint committee appointed on this subject.

WEDNESDAY, June 25.

Respect to Lafayette.

The joint resolution from the other House relative to the death of General Lafayette, was read.

Mr. WEBSTER said he should not say a single word respecting the character of the illustrious individual whose decease was the subject of this resolution. The present proceedings of Congress was intended to express the sense of the Legislature of the United States, and of the American people, under this mournful event. It was not desired that either party should take precedence of the other upon this occasion, but that whatever was done, should be considered as expressive of the nation's gratitude to the nation's benefactor. He (Mr. W.) hoped the vote upon the resolution would be such as would enable posterity to speak of the unanimity with

stated that the superintendent had been consulted.

said that the debasement was an object of exception.

Georgia, stated that the effect would be to raise the value of gold $\frac{4}{5}$ which is only a little above the market value of the article.

s thought that the bill changed the ratio per cent., which was more than the proportion. Why was it made to establish a legal currency of two values must exactly correspond. It would be evil by creating a disproportion? s replied, that if it had been otherwise there would have been any evil, it had been recommended. He referred to various modes of computing value, and the propriety of coming to an accurate re-

saw said the usual custom of foreign countries was to make gold somewhat of a variable value. In Spain the ratio of gold was 16 to 1. In Cuba it

s read an extract from the letter of the correspondent, in opposition to the passage of the bill.

was then taken on the engrossment of the bill, and decided as follows:

s. Benton, Bibb, Black, Brown, Frelinghuysen, Grundy, Hendricks, King of Alabama, King of Georgia, Mangum, Morris, Poindexter, Robinson, Robbins, Robinson, Shepley, Tillmadge, Tipton, Tomlinson, Tyler, Webster, White, Wilkins, Wright—35.
s. Chambers, Clay, Knight, Porter, Sprague—7.

Bill then passed.

EVENING SESSION.

PRESIDENT did not take the Chair at the evening session.

of Mr. WEBSTER, the Senate proceeded to the election of a President *pro tem*.

On the first ballot, Mr. POINDEXTER received a majority of the whole, and was duly elected President *pro tem*, and took the Chair by Mr. CHAMBERS. This seat in the Chair, Mr. POINDEXTER addressed the Senate to the following effect:

penetrated with the most profound gratitude for the kind manifestation of feeling in calling me to preside over this honorable body, I rise to express my thanks, and the unfeigned difficulty I enter upon the discharge of the delicate duties assigned to me. Unfamiliar with the technical rules of parliamentary procedure, sensible of my own defects, and that, in the face of doubt and difficulty, I must rely upon the wisdom of the Senate, and the friendly aid of those who have more experience in the management of this body. Permit me, gentlemen,

to assure you, that for the few remaining hours of the present session, and so long as I may occupy the Chair, it shall be my constant endeavor to meet your just expectations, and to preserve the order and decorum of debate, so necessary to the harmony and dignity of every deliberative assembly, and to the despatch of the important business which may be brought to the consideration of the Senate.

On motion of Mr. CHAMBERS, a committee was ordered to be appointed to wait on the President of the United States, and inform him that the Senate have elected the honorable GEORGE POINDEXTER to be their President *pro tem.*; and that the Secretary do communicate the same to the House of Representatives.

MONDAY, June 30.

Deposit Banks—Recess Committee to Examine.

The Senate proceeded to consider the resolution offered by Mr. SOUTHARD, instructing the Committee on Finance to sit during the recess, in order to investigate the condition of the banks in which the public deposits are made.

Mr. KING, of Alabama, objected to the instruction, and asked for further explanations to show its necessity.

Mr. SOUTHARD replied, that the public treasure was in danger; and if there was any object which could require the attention of a committee during the recess, it was this. The Committee on Finance had been instructed to obtain information, and had not yet been able to gain it for want of time. It was to enable the committee to act at all, that this proposition was made.

The question was decided as follows:

YEAS.—Messrs. Bibb, Chambers, Clay, Ewing, Frelinghuysen, Knight, Leigh, Mangum, Moore, Naudain, Poindexter, Porter, Robbins, Silsbee, Smith, Southard, Sprague, Tomlinson, Waggaman, Webster—20.

NAYS.—Messrs. Grundy, Hendricks, Hill, Kane, King of Alabama, King of Georgia, Robinson, Shepley, Tallmadge, Tipton, White, Wright—12.

So the resolution was agreed to

Expunging Resolution.

Mr. BENTON submitted a resolution that the resolution of the Senate of Tuesday, the 20th

of March last, that the President of the United States, in ordering the removal of the deposits from the Bank of the United States, had assumed a power not granted by the law or the constitution, but in derogation of them both, is a resolution imputing impeachable matter to the President, and ought not to be passed except in the regular form of constitutional impeachment, and ought to be struck out of the Journals.

Mr. CLAY said it ought to be remembered the time and circumstances under which that resolution was offered, when the Senate was within a few hours of its adjournment, and when one-third of the members had already left town. He looked upon it as an improper time to introduce a resolution of that nature.

The motion was opposed by Messrs. CLAY, CALHOUN, and WEBSTER; and on the question being taken by yeas and nays, negatived—yeas 11, nays 20.

Mr. GRUNDY, from the committee appointed to wait on the President of the United States, reported that the committee had discharged that duty, and that the President stated that he had no further communications to make to the present Congress. The President had signed all the bills but that for the improvement of the Wabash River, which had been presented to him at so late a period that he had not time to examine it; but, as the subject of the bill was interesting to many, he would sign it within the time allowed by the constitution, if, upon examination, he should feel himself justified in so doing; if not, he would use his privilege.

Mr. CLAY observed that the bill was dead after the adjournment, and that the bill for the improvement of the Hudson River went along with it.

Mr. GRUNDY said, as to that he had nothing to say; but he did not expect a dispute. The President had a right to exert his privilege.

Mr. TIPTON said the bill for the improvement of the Wabash was sent in on Saturday, and that for the improvement of the Hudson to-day.

The two Houses having exchanged the usual messages,

The Senate adjourned, *sine die*, at 45 minutes past six.

T SESSION.

ES

TATIVES.*

the roll having proceeded as
State of Kentucky, before the
members from that State were

Kentucky, rose, and asked per-
ess the House. He observed
passed at the last Congress ap-
number of representatives among

ark, Harmar Denny, George Chambers,
ennan, John Banks, Andrew Stewart,
George Burd, Jesse Miller, Joseph B.
Muhlenberg, Joel K. Mann, Robert
Wagener, Henry King, Andrew Bean-
Joseph Henderson, John Galbraith,
Richard Coulter, Joel B. Sutherland,
y. Milligan.

P. Heath, James Turner, John T.
Kim, Richard B. Carmichael, Francis
Johnson, Lyttleton P. Dennis.

M. Patton, John Y. Masco, William F.
ouldin, William S. Archer, Nathaniel
W. China, Charles F. Mercer, Edward
owell Moore, Andrew Stevenson, Tho-
J. Allen, George Loyall, James H.
ilson, James M. H. Beale, William F.
ulton, William McComas, Henry A.

Alcajah T. Hawkins, Thomas H. Hall,
Jesse Speight, James McKay, Abra-
L. Barringer, Edmund Deberry,
astine H. Shepperd, Henry W. Connor,
es Graham.

James Blair, George McDuffie, Thomas
K. Clowney, Henry L. Pinckney,
Warren R. Davis, John M. Felder, John

M. Wayne, Richard H. Wilde, George
S. Clayton, Thomas F. Foster, Roger
ones, William Schley, John Coffee.

Allan, Thomas A. Marshall, Amos
Johnson, Thomas Chilton, Robert P.
Moore, Benjamin Hardin, Chittenden

the several States, the State of Kentucky had been declared entitled to thirteen representatives in the present Congress; but that, in casting his eyes around the Hall, he recognized fourteen gentlemen ostensibly claiming to be representatives of the State, and members of this House. The State, he said, was divided by law into thirteen districts, from each of which one member was directed to be chosen to represent her interests in this body. From one of these districts, the fifth, consisting of the counties of Mercer, Garrard, Lincoln, Jessamine, and Anderson, there were two gentlemen present, both claiming a right to appear on this floor. From the circumstances of the case, it was obvious that the question of their right to a seat must be decided in the present stage of the proceedings. The question arising from these conflicting claims, was one deeply interesting, not only to their own immediate districts, but to the State at large; so much so, that the delegates from the State had met together, and had deemed it their duty to take the novel case presented, under their most serious consideration. They had, accordingly, examined the electoral law of Kentucky, and the returns from the district in question, and had concluded (very contrary to his own wishes) to appoint him as their organ to raise the question, involved by the circumstances of these claims, before that body.

In order to enable the House to decide the controversy between these claimants, he would ask the Clerk whether he had in his possession any certificates or other vouchers, in relation to the late election, in the district from which both the gentlemen came? And, if he had, he would call upon the Clerk to read them.

The CLERK replied that there were in his possession divers papers on that subject, and, if it were the desire of the gentleman, they would be produced.

(Ories of "Read! read!" resounded from all parts of the Hall.)

The papers were accordingly produced; but, before reading them, the CLERK stated that they would have been in his possession at an earlier period, but owing to their being addressed to "the Speaker or Clerk of the House of Representatives," they had been placed in the box at

the post office usually appropriated to the Speaker of the House: here they had remained until late the night before, when, there being no Speaker as yet, he had taken the liberty of opening the package, which was postmarked "Lexington," and which he concluded must probably refer to this matter.

The Clerk was now about to read the papers, when,

Mr. WAYNE rose, and, after premising his wish that it should be clearly understood that he took no part in the controverted claim, on either side, inquired of the Clerk whose name appeared on the roll which had been made out by him, as elected from the district in question?

The CLERK replied, that the name on the roll was that of THOMAS P. MOORE.

Mr. WAYNE then resumed, and expressed his wish that the individual whose name had been inserted on the roll, should produce and exhibit his credentials, that the House might be in circumstances of judging of the validity of his claim. From the earliest period of our congressional history this had been the usage, and no new member was sworn in until his credentials had first been produced and examined. Of late, a different course had been pursued, probably to avoid delay; but, in the present instance, there was an obvious propriety that the original usage should, in this case, be revived. Mr. W. said, that with one of the claimants he had no personal acquaintance, with the other he had, and cherished much regard for him, and he did not wish that his rights should be compromised on this occasion. He felt his present course to be a solemn duty—it sprang from his heart; he was imperatively bound to stop, if possible, a course of proceedings by which the right of any member claiming a seat on that floor might be contested in the most irregular manner. As yet, he believed a majority of the names on the roll had not been called, and until that had been done, and gentlemen had answered, although he saw them on the floor and in those seats, he could not recognise them as members of the House of Representatives; nor, indeed, could he do so after they had answered, until they had been sworn into office, as prescribed by the constitution. He submitted it to the judgment of gentlemen present, whether the old mode of calling for the

Lyon, Martin Beatty, James Love, Christopher Tompkins, Patrick H. Pope, Albert G. Hawes.

Tennessee.—John Bell, Cave Johnson, James K. Polk, David W. Dickinson, Belle Peyton, John Blair, Samuel Bunch, Luke Lea, James Standefer, David Crockett, John B. Forester, William M. Inge, William C. Dunlap.

Ohio.—Robert T. Lytle, Taylor Webster, William Allen, Jeremiah McLene, Thomas L. Hamer, John Chaney, Robert Mitchell, John Thomson, Benjamin Jones, William Patterson, Humphrey H. Leavitt, David Spangler, James M. Bell, Elisha Whittlesey, Thomas Corwin, Joseph Vance, Samuel F. Vinton, Jonathan Blane, Joseph H. Crane.

Louisiana.—Philemon Thomas, Henry A. Bullard, Edward D. White.

Indiana.—Amos Lane, Jonathan McCarty, John Orr, George L. Kinnard, Edward A. Hannegan, Ratliff Bean, John Ewing.

Mississippi.—Henry Oge, Franklin R. Plummer.

Illinois.—Joseph Duncan, Zadock Casey, Charles Slade.

Alabama.—Clement C. Clay, Dixon H. Lewis, John Murphy, Samuel W. Mardis, John McKinley.

Missouri.—William H. Ashley, John Bull.

DELEGATES.

Michigan.—Lucius Lyon.

Arkansas.—Ambrose H. Sevier.

Florida.—Joseph M. White.

DECEMBER, 1853.]

Kentucky Contested Election.

[H. OF R.]

credentials of claiming members was not the fit mode of settling this affair.

Mr. ALLAN inquired whether he was to understand the gentleman from Georgia as objecting to the reading of the papers in the hands of the Clerk?

Mr. WAYNE answered in the negative; but said that he wished the credentials of the gentleman entered on the roll should first be produced.

Mr. ALLAN replied, that the paper about to be read was precisely the document which the gentleman from Georgia wanted to be read.

The CLERK then proceeded to read, first, the envelope which contained the election returns of twelve out of the thirteen districts in Kentucky, (the sixth district not being included, for what reason he was ignorant.) The return from the fifth district (the district now in question) was included; and he would now proceed to read it.

Mr. WAYNE inquired whether it had been presented by the gentleman whose name was on the roll, as his credentials?

The CLERK replied that he had received no paper of any kind from Mr. MOORE.

The Clerk read the certificate of the Governor of Kentucky, accompanying the returns.

Mr. ALLAN called for the reading of the certificate from the sheriffs of the fifth congressional district.

Mr. WAYNE objected to its being read.

Mr. ALLAN inquired whether the gentleman from Georgia meant to be understood as maintaining the position, that, because any individual had been enrolled by the Clerk as a member of the present Congress, that individual was, on that account, entitled to be sworn in as a sitting member?

Mr. WAYNE said that the person claiming to be substituted for the individual upon the roll, ought to produce his credentials, and say whether those were the papers on which he intended to found his claim to a seat. If that were done, Mr. W. would be ready to pass upon them.

Mr. MOORE, of Kentucky, said, that had he not been informed from various quarters that this movement would be made, it would have greatly surprised him. Unprecedented as it is, he was prepared to meet it calmly, and to submit it to the decision of the House, though unformed, and not having the power to give a legal decision, as is now the case. It is upon *prima facie* evidence only, said Mr. M., that any member of this House is entitled to be sworn, and it cannot be known to us, as a constitutional body, whose election is to be contested and whose not, until the House is organized. Until then, there is in fact no one entitled to make such a motion, and no one entitled to decide it.

I come here with the *prima facie* evidence of my election, like the honorable gentlemen around me. I have in my possession the certificate of a majority of the sheriffs, convened according to law, to compare the polls; and the Clerk of this House has received the same

evidence from the Governor of the State of Kentucky, that I am the representative of the fifth congressional district, that he has transmitted to establish the claim of the other members from Kentucky. If these documents are informal or defective, a committee of this House, after it is duly organized, will so decide, and until they do so decide, and it is sanctioned by this House, I am as much entitled to my seat as any member on this floor.

I not only have the *prima facie* evidence of my right to the seat, but if any one, at a proper period, shall come forward to contest it, I shall, I hope, be prepared to show that I am duly elected, or that the election was marked by such gross irregularities, as ought to induce this House to refer it again to the decision of the people. Nothing but a deep conviction of the truth of what I have stated, would have brought me here; and, if my wishes could have controlled, all doubts as to who is legally entitled to the seat would have been decided by the people themselves, without troubling this House. But as that appeal to decide ultimate as well as *prima facie* rights was declined, I am left no alternative but to assert my rights, and those of the people whom I claim to represent here.

Ever inclined to pursue that course which will preserve order and decorum in this Hall, and not being disposed to retard the organization of the House, I shall cheerfully submit to any decision the gentlemen present shall make; but it is my duty to do it with a proper reservation of my rights, and the rights of those who sent me here.

I therefore respectfully deny the right of any one at this time to vote on the subject, and if I am prohibited from qualifying, I shall protest against it as an arbitrary exertion of power, which will form a most dangerous precedent, and not only deprive me of my just rights, but the people of the fifth congressional district of their representative.

The reading of the papers then proceeded, and the election return of the fifth district of Kentucky was read,* at the close of which the words "the votes of Lincoln county not being taken into the account," occurring,

* The following is the copy of the certificate, by virtue of which Mr. Moore claimed his seat:

STATE OF KENTUCKY,
Fifth Congressional District.

We, the undersigned sheriffs for the counties of Mercer, Garrard, Anderson, Lincoln, and Jessamine, composing said fifth congressional district, do certify, that, on the fifteenth day after the commencement of the late congressional election for said district, to wit: on the 20th day of August, 1853, we met at the court-house in Harrodsburg, Mercer county, and, adjourning from day to day, made a faithful comparison and addition of the votes and polls, for said congressional election for said district, and found, and accordingly certify, that Thomas P. Moore is duly elected representative to Congress from the said fifth congressional district, by a majority of the qualified votes of said district.

Given under our hands, this 21st day of August, 1853.

The vote of Lincoln county not taken into calculation.

JACOB KELLER, Deputy for
G. W. THOMPSON, S. M. C.
JOHN WALSH, Sheriff of Anderson county, by R. WALKER, Deputy.
JAMES H. LOWEY, Deputy for
JOHN DOWNING, S. J. C.

Mr. MARSHALL inquired whether those words preceded the signatures?

The Clerk replied in the affirmative.

Mr. MOORE inquired whether these words were not in a different hand-writing from the body of the certificate?

This also was answered by the Clerk in the affirmative.

Mr. ALLAN inquired (turning to Mr. MOORE) whether it was intended to contend that that part of the paper was a forgery?

Mr. MOORE explained; but all the reporter could catch, was, that Mr. M. had been told that the words had been inserted at the instance of one of the sheriffs, after the signing; but he disclaimed any intention to impute forgery.

Mr. ALLAN proceeded. He now understood that the paper which had been read, was the document by virtue of which the gentleman who had just taken his seat, claimed to be duly elected to the present Congress; and he admitted that if that paper, according to the laws of Kentucky, had been certified and signed by the persons required to certify and sign it, then, by the usages of that House, the gentleman was entitled, for the present, to be recognized as the sitting member. But if the paper was not, in point of fact, a certificate of the electoral vote of the fifth congressional district of Kentucky, and was not signed by those persons required by law to sign it, then it was a nullity; and it turned out that the individual was claiming a seat on that floor without any certificate of his election. The delegation from Kentucky had compared this paper with the laws of that State, and had come to the conclusion that the certificate was null and void: and he would briefly submit to the House the reasons of such conclusion.

The paper professed to certify the vote of a district composed of five counties. By the State law, it was the duty of the sheriffs of these five counties to meet together on a certain day after the polls were closed, to compare the votes given in their several counties, add them up, and give a certificate of the result, signed by all of them. The object of the law certainly was to ascertain who had a majority of all the votes given in; and to furnish such individual with a legal certificate of his election.

Mr. A. said that he understood himself to possess the right of rising, and presenting the question in this case to the House. This was a House. Under the view of the constitution, it was competent to perform any act pertaining to the House of Representatives, and its first duty was to ascertain who were its own members. This was a representative Government—and the first question which demanded attention was, whether individuals, claiming to be representatives of the people, were actually their representatives.

Mr. FOSTER having, by permission of Mr. ALLAN, taken the floor, proposed the appoint-

ment of a Chairman, to give order to the proceedings.

A member inquired whether a quorum of the House had answered to their names?

Mr. FOSTER further urged the expediency of choosing a Chairman. The House was competent to do this, whether a quorum had answered or not; just as a number of gentlemen, met for any other business, were accustomed to do.

Mr. ELLSWORTH thought it would be better to let the Clerk proceed as usual. Till the roll was gone through with, they could not tell who was entitled to vote for a Chairman.

Mr. FOSTER said the Clerk did not act as Chairman; he only read a list he had made out, on what ground, or by what authority, Mr. F. did not know; surely his placing the name of a particular person on that list did not make him a member of the House of Representatives.

Mr. SPEIGHT thought it would be much better to postpone this matter until the roll had been gone through, the members qualified, and the Speaker chosen. A debate previous to that would only produce confusion.

Mr. ALLAN, replied, that if it were the custom of the House to qualify the members before the Speaker was elected, and the gentlemen from Kentucky would acquiesce, he should be more willing to comply with this suggestion; but the usual course had been to elect a Speaker first, and qualify the members afterwards. It was known to every man, of the least observation or experience, that the election of the Speaker gave a character to the House and a tone to all its proceedings; and he asked whether his State was not entitled to have her full and just representation upon that floor, when an act so important was about to be done? Surely she had a right to demand the decision of a question of such consequence, a question which went directly to that vital interest of freemen, the right of suffrage. He admitted that the question was of a novel and somewhat embarrassing character, and required to be treated with consideration; but there was abundant time for its examination. How could the time of the House be occupied more profitably than in putting a question of this magnitude to rest? There was no necessity to hurry a decision. Believing it to be conceded that he had a right to the floor, he should now proceed, respectfully and very briefly, to state the two fatal objections which existed to the legality of the paper which had been read at the Clerk's table. They were on the face of the paper itself. He should not go behind it.

Here Mr. BOON requested Mr. ALLAN to yield the floor to him for a moment; but Mr. A. refused, and was about proceeding to explain his objections to the sheriff's certificate, when (having been spoken to aside by Mr. CHAMBERS) he said that he understood a proposition would be made by one of the gentlemen claiming the seat, and with a view to afford an opportunity for such a movement, he would readily take his seat.

Mr. LETCHER proposed to Mr. MOORE, that

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they should both withdraw until after the election for Speaker had taken place.

Mr. MOORE was understood as acquiescing in this proposal; whereupon,

The Clerk proceeded to call the residue of the roll; when it appeared that 229 members were present.

Those Representatives absent were Messrs. BURNS, CHOATE, PEARCE, MUHLENBERG, WISE, SINGLETON, BULLARD, E. D. WHITE, and PLUMMER; and, of Delegates, Mr. WHITE.

Election of Speaker.

The House then proceeded to the election of Speaker of the House. The ballots having been cast, Mr. JARVIS, Mr. PORTS, and Mr. O. C. CLAY, were appointed tellers; and, having counted the votes, reported to the House that the whole number of ballots were 218, and that ANDREW STEVENSON, of Virginia, having received 142 votes, a majority of all the votes given in, was duly elected Speaker of the House.

Whereupon, Mr. STEVENSON was conducted to the Chair by Mr. WILLIAMS, of North Carolina, from which he returned his thanks, in the following address:

"Gentlemen: This is the fourth time that you have been pleased to call me to this high office. For this new and distinguished mark of your confidence and favor, I pray you to accept my warm and grateful acknowledgments; and whilst it will be deeply valued and cherished by me as the best reward for any past service that I may have rendered, it shall inspire me with a zeal so to conduct myself, as to justify in some measure the choice of my friends, and merit the continued approbation of my country. Would to God that I was better qualified to fulfil the arduous duties of this Chair, in a manner suitable to its dignity and importance, my own wishes and honor, and the just expectations of the House. There are few stations, gentlemen, under our Government, either in relation to their elevation, or the nature and extent of their duties, more laborious or responsible than that of Speaker of this House; and there probably has been no period in the past history of our country, when the duties of the Chair were more important, or calculated to impose higher responsibilities, than at the present moment; enhanced as they necessarily must be, by the enlarged number of the House; by the increased mass of its ordinary business; and by those interesting and important subjects, which will, no doubt, be presented for consideration, and probably give rise to deep political excitement.

"For the last six years, my experience in this Chair has taught me, not only to know and feel its responsibilities and trials, but to know likewise how difficult and indeed impossible it is, in an office like this, whose duties must often be discharged amidst the warmth of party feeling, for any man, whoever he may be, to free himself from censure or give unqualified satisfaction; and especially in times like these, when the acts of public men are not passed lightly over, nor any very charitable judgment pronounced upon their motives.

"Under these circumstances, gentlemen, sincerely distrustful of my abilities, both in their character

and extent, I come again, at your bidding, to this high office. All that I dare hope or promise, will be, to proceed in the path marked out, and in the spirit of the principles which I laid down for my government when I first came to this Chair. It shall be my constant and ardent desire to discharge my duty with all the ability and address in my power; with the temper and moderation due to the station and the House; and at least with a zeal and fidelity of intention, which shall bear me up under every embarrassment and difficulty, and entitle me to the approbation of the just and liberal portion of my country. But all my efforts must prove unavailing without that liberal and cordial co-operation which the House have heretofore so kindly extended to the Chair. How much will depend upon yourselves, gentlemen, individually and collectively, in preserving the permanent laws and rules of the House, and giving dignity and character to its proceedings, it is not necessary that I should attempt to impress on you; nor is it needful, I am sure, that I should admonish you of the magnitude of your trust, or the manner in which it ought to be discharged. But this I will take occasion to say, that if it be true that this House is justly to be regarded as the great bulwark of liberty and order; if here, here in this exalted refuge, the people are to look for the security and safety of their free institutions, and to repose with unlimited confidence and affection, how important, how deeply important is it, that we prove ourselves worthy of the trust and act as becomes the representatives of a free and enlightened nation.

"Yes, gentlemen, animated by a virtuous and patriotic zeal, let all our proceedings, I pray you, be marked with forbearance, moderation, and dignity; let us diligently and steadfastly pursue those measures, and those only, which are best calculated to advance the happiness and glory of our beloved country, and render that Union which our fathers established for the protection of our liberties, imperishable and immortal!"

The SPEAKER then took the required oath to support the Constitution of the United States, which was administered by Mr. WILLIAMS; after which the same oath was administered by the SPEAKER to the members respectively; except that when Mr. MOORE was called, it appeared that he and Mr. LETCHER had concurred in allowing the organization of the House to be completed before the question between them was again raised, and neither of them was sworn.

Election of Clerk.

The House then proceeded to the election of Clerk of the House, Mr. POLK, Mr. HENRY KING, and Mr. MANN being tellers.

WALTER S. FRANKLIN, of Pennsylvania, was elected Clerk of the House on the third ballot.

TUESDAY, December 3.

Walter S. Franklin, Esq., the Clerk elect of the House, was sworn into office.

A message having yesterday been received from the Senate, stating that they were ready for business, and had passed a resolution pro-

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viding for the appointment on their part of two members of a joint committee to wait upon the President,

Mr. WARD called up the resolution, and it was concurred in.

Messrs. WARD and SPRIGHT were appointed members of the joint committee on the part of the House.

Mr. ADAMS moved that the Clerk inform the Senate that the House was organized, and ready to proceed to business.

On motion of Mr. MASON, of Virginia, the House proceeded to the election of a Sergeant-at-arms.

Mr. MASON nominated Thomas Beverly Randolph, (Sergeant-at-arms to the last Congress.)

Mr. SPRIGHT nominated William D. Robinson, of Virginia.

The House proceeded to ballot, and Messrs. MASON, WILLIAMS, and WARDWELL were appointed to count the votes.

Mr. MASON then reported that 220 votes had been given; that 111 were necessary for a choice; that Thomas Beverly Randolph had received 158 votes; and having a majority of votes, was duly elected Sergeant-at-arms.

Mr. CLAY offered a resolution, that OVERTON CARR be appointed Doorkeeper to the House, and WILLIAM HUNTER assistant Doorkeeper; which was agreed to *nem. con.*

The Sergeant-at-arms and Doorkeepers were sworn into office.

A Message was received from the President of the United States, by A. J. Donelson, Esq., his private Secretary, and read at the Clerk's table. [See Senate Proceedings.]

WEDNESDAY, December 4.

Kentucky Election.

Mr. ALLAN, of Kentucky, called the attention of the House to the question of the contested election for the fifth congressional district of Kentucky, which was pending on Monday, and which was deferred by their consent, until the organization of the House should have been completed; that having now taken place, he proposed to proceed to the consideration of the subject. [A gentleman from Alabama (Mr. McKINLEY) rose.] Mr. A. could not on such an occasion waive his right to the floor.

Mr. McKINLEY said: I rise to a question of order. There is no distinct question, that I am aware of, at present before the House.

The SPEAKER said that both the gentlemen claiming the disputed seat, had agreed to defer the question of right to it until the organization of the House should be completed, and that having been done, he conceived the gentleman from Kentucky (Mr. ALLAN) was not infringing upon the order of the House in calling their consideration to the subject.

[A discussion then took place in which Messrs. Allan, Chilton, Ellsworth, Beardsley, Polk, Ward-

well, McKinley, Burges, and McKennan, took part; and which consumed the sitting.]

THURSDAY, December 5.

Kentucky Election.

The House then resumed the consideration of the contested election between Mr. T. P. Moore and Mr. Letcher.

Mr. HARDIN thought, from what he had heard on the preceding day, that many gentlemen had felt embarrassed, owing to the question not being before the House in a tangible form. He would offer two resolutions, the object of which was to obviate this difficulty.

The resolutions were then read, and being amended, were agreed to as follows:

Resolved, That the Committee of Elections, when appointed, inquire and report to the House who is the member elected from the fifth congressional district of the State of Kentucky; and, until the committee shall report as herein required.

Resolved, That neither Thomas P. Moore nor Robert P. Letcher shall be qualified as the member from said district.

Resolved, further, That the Committee of Elections shall be required to receive as evidence all the affidavits and depositions which may have been heretofore, or which may hereafter be taken by either of the parties, on due notice having been given to the adverse party or his agent, and report the same to the House.

MONDAY, December 9.

Election of Chaplain.

On motion of Mr. GREENWELL, the House proceeded to the election of Chaplain on the part of the House; which resulted in the choice of the Rev. THOMAS H. STOCKTON.

TUESDAY, December 10.

Death of Mr. Singleton.

Mr. PINCKNEY stated that he held in his hand certain resolutions, which he would respectfully ask leave to offer for adoption by the House. He believed that it had always been customary for the House to adopt suitable tributes of respect to its deceased members. The South Carolina delegation had heard, with deep regret, of the death of their colleague, the honorable THOMAS D. SINGLETON, and it was his painful duty to communicate that mournful information to the House. He died at Raleigh, whilst on his journey to the Capitol, whither he was hastening to assume his seat, and to discharge his duties, as a member of this body. It was a source of grateful consolation to his colleagues to learn, as they had done, that he received every possible attention during his illness from the kindness and humanity of the citizens of Raleigh, and that the Legislature of North Carolina, in a manner equally honorable

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to him and to themselves, had evinced their respect for his public character and private virtues, by attending his remains to the tomb.

It was true that the deceased had not had it in his power to appear and qualify as a member of the House. But as it was well known that he was a representative elect, and that he died whilst in the very act of endeavoring to reach this city, he certainly deserved every testimonial of respect to which he would have been entitled if he had actually qualified, and might justly be considered as having literally fallen in the discharge of his duties and in the service of his country. It was the fortune of Mr. P. to have had but a slight personal acquaintance with the deceased—but that acquaintance, slight as it was, was sufficient to impress him with a high respect for his intelligence and virtues as a man, and with a deep conviction of his exalted purity and devotion as a patriot. He would not detain the House, however, with any thing like a regular eulogy of his departed colleague. To those who knew him, it would be entirely unnecessary—to those who did not, it might prove uninteresting. It would be sufficient therefore, to say, that he was eminently honored and beloved by his constituents, amongst whom he possessed, as he deserved, almost unequalled popularity and influence; and that whilst his death inflicts a deep wound and an irreparable loss upon his immediate relations and friends, it may well be regarded also as a public calamity to his particular district, and will assuredly be a subject of regret to the people of his State in general. Under these circumstances, he proposed that the House should pay a becoming tribute to his memory—well knowing that it was not only in conformity with the usages of the House upon similar occasions, but that it could not be bestowed on a more worthy man, on a purer patriot; a man, of whom all who knew him concurred in saying that his private life was a beautiful exemplification of every Christian virtue, and that, as a politician and a patriot, he uniformly exhibited an ardent attachment to the rights of the people, and to the great cause of constitutional liberty. With these few remarks, which he had felt it his duty to submit, in justice to the character of one whose memory deserved a far better tribute than any he could offer, he now proposed the following resolutions for the consideration of the House:

Resolved, That this House has received with deep regret the melancholy intelligence of the death of the honorable THOMAS D. SINGLETON, a representative elect from the State of South Carolina.

Resolved, That this House tender the expression of their sympathy to the relatives of the deceased, on this mournful event; and that, in testimony of their regret for his loss, and respect for his memory, the members will wear crape on the left arm for thirty days.

The resolutions were passed unanimously.

Mr. PROCKNEY then said that, as he understood it to be customary, in cases of this kind, to

move an adjournment of the House, he would, as an additional token of respect to the memory of the deceased, move that the House do now adjourn.

The motion was agreed to;

And the House thereupon adjourned.

FRIDAY, December 13.

Bank of the United States.

The SPEAKER presented a memorial from Messrs. Gilpin, Sullivan, Wager, and McElderry, Government directors of the Bank of the United States, stating (as the Speaker announced) certain matters in relation to the conduct of that institution.

Mr. POLK moved that it be referred to the Committee of Ways and Means.

Mr. ABOHEE had not the slightest wish to give this paper any final disposition which should take it out of the hands of the gentleman from Tennessee. But suppose the House should determine that the Secretary's letter on the deposits should go to the Committee of the Whole, would the gentleman desire this paper to take a different course? As to calling for the yeas and nays, Mr. A. said the gentleman ought to know him too well to suppose that the yeas and nays had any terror for him. He moved to lay the memorial on the table, and print it.

Mr. POLK demanded the yeas and nays on the motion; which were ordered, and being taken, on laying the memorial for the present on the table, stood—Yeas 107, nays 119.

So the House refused to lay it on the table.

On the question on printing, the yeas were 140, and the nays 4. So it was ordered that the memorial be printed.

The question being then put on referring the memorial to the Committee of the Whole on the state of the Union, the yeas were 96, and the nays 133. The memorial was then referred to the Committee of Ways and Means.

WEDNESDAY, December 18.

Bank of the United States.

Mr. BIXNEY presented the following memorial from the Bank of the United States:

To the Senate and House of Representatives of the United States:

The Board of Directors of the Bank of the United States respectfully represent—

That, by the charter of the bank, it was stipulated between the Congress of the United States and the stockholders of the Bank of the United States, that in consideration of a full equivalent rendered by them, in money and services, they were entitled to the custody of the public moneys, which were not to be withdrawn from it, unless for reasons, of the sufficiency of which Congress, and Congress alone, was the final judge.

That the bank has in all things faithfully performed the stipulations of the charter.

Nevertheless, since the adjournment of Congress, the Secretary of the Treasury has issued an order, on the 26th of September last, withdrawing from the possession of the bank, the custom-house bonds deposited therein, and has subsequently transferred into certain State banks a large portion of the public moneys, then in the safe-keeping of the bank, with the purpose of making them hereafter the permanent depositories of the public revenue.

The Board of Directors therefore deem it their duty forthwith to apprise your honorable bodies of this violation of the chartered rights of the stockholders, and to ask such redress therefor, as to your sense of justice may seem proper.

By order of the Board:

N. BIDDLE,
President Bank U. S.

PHILADELPHIA, Dec. 9, 1833.

Mr. BINNEY moved that the memorial be laid on the table, and printed.

Mr. POLK moved its reference to the Committee of Ways and Means, and demanded the yeas and nays on the motion for laying it upon the table.

The question recurring upon laying it upon the table, the yeas and nays were taken, and resulted as follows:—Yeas 80, nays 126.

Mr. POLK's motion for its reference to the Committee of Ways and Means being about to be put—

Mr. CHILTON moved to amend it by adding instructions to the committee to bring in a joint resolution ordering the Secretary to re-deposit in the Bank of the United States the public moneys which, by his order, have been removed from that institution.

[After an extended speech from Mr. Chilton, the vote was taken and the memorial referred to the Committee of Ways and Means.]

THURSDAY, December 19.

Removal of Public Deposits.

The House resumed the consideration of the motion to refer the Secretary of the Treasury's report on the deposits of the Committee of Ways and Means; and the question being upon the motion of Mr. McDUFFIE to add to the motion for reference the following instruction to the committee:

"With instructions to report a joint resolution, providing that the public revenue hereafter collected shall be deposited in the Bank of the United States, in compliance with the public faith, pledged by the charter of the said bank."

Mr. McDUFFIE said: Mr. Speaker, I shall now proceed, sir, to state the reasons which have induced me to submit the resolution just read. In strict justice, I believe that it is due to the Bank of the United States, that the public money taken from its vaults should be restored; but as this would now add greatly to the

embarrassment and distress of the community, I have confined my resolution to the revenue hereafter to be collected, leaving it to the justice of Congress to indemnify the bank for any loss it may sustain by the violation of its chartered rights. I believe that we are under the most solemn obligations to adopt this measure—obligations founded in the highest considerations of public justice, plighted faith, and political expediency.

The whole public treasure of the United States has been removed from the depository established by law, by an arbitrary and lawless exercise of Executive power. I affirm that the act has been done by the President of the United States, not only without legal authority, but I might also say, in contempt of the authority of Congress.

We were told by the President, in his annual Message—and told with great gravity—that the Secretary of the Treasury had deemed it expedient to remove the deposits from the Bank of the United States, and that he, (the President,) approving of the reasons of the Secretary, acquiesced in the measure. Now, sir, I do not mean to charge the President of the United States with stating to Congress what is not the fact according to his view of the subject—but I undertake to assert broadly, that the Secretary of the Treasury did not remove the deposits, but that, to all legal and rational intents and purposes, the removal was made by the President of the United States, against the opinion and will of the officer to whom the power of removal was intrusted by law. This, then, is the great legal and constitutional question which we are now to determine. Who is it that has removed the public treasure from the depository established by law, and by what authority has the act been done?

I maintain that the President of the United States is the author of this whole proceeding, and shall proceed to show that, notwithstanding the devices by which this assumption of power is covered over and disguised, he has "assumed the responsibility," or, more properly speaking, usurped the power of removing the deposits. I presume that, on this point at least, the word of the President will be regarded by all parties as conclusive evidence of his agency in the business. Fortunately the author and the reasons of this measure are not left to conjecture, but are openly disclosed to the world in a printed manifesto; and from what has occurred in the other branch of the Legislature, we are now authorized to consider that manifesto as an official document, containing the reasons on which the President of the United States—not the Secretary of the Treasury—ordered the removal of the public deposits. From that document I propose to read a few sentences, which are perfectly conclusive of the agency of the President in this measure. After stating the various reasons which rendered it, in his opinion, expedient to remove the deposits, the President proceeds to add: "From all these con-

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siderations, the President thinks that the State banks ought to be immediately employed in the collection and disbursement of the public revenue, and the funds now in the Bank of the United States drawn out with all convenient despatch." Then, towards the conclusion of the document, he says: "The President again repeats, that he begs his cabinet to consider the proposed measure as his own, in support of which he shall require no one of them to make a sacrifice of opinion or principle. Its responsibility has been assumed, after the most mature deliberation and reflection." And, finally, we have his decree formally announced in these imperative words: "Under these considerations, he feels that a measure so important to the American people cannot be commenced too soon; and he therefore names the first day of October next, as a period proper for the change of the deposits, or sooner, provided the necessary arrangements with the State banks can be made."

Such, sir, is the authoritative language of the President of the United States, and I submit to any man capable of understanding the obvious import of plain words, to say whether the Chief Magistrate does not openly avow—while recognizing the exclusive right of the Secretary of the Treasury—that he assumes the responsibility and usurps the power of removing the public deposits.

And what, pray, was the emergency that constrained the President, only sixty days before the meeting of Congress, to interfere with the duties of another officer, and assume a responsibility that did not belong to him? It would seem from the document to which I have already referred, that nothing could be more painful to the President than the necessity of exercising this power. We have here a striking exemplification of the extraordinary degree in which public men deceive themselves, as well as others, as to the motives by which they are actuated in assuming power, particularly the highest acts of executive power. Instances of the same reluctant assumption of power are not rare in history. It is curious to read, as a commentary on his proceedings, the strong terms in which the President regrets the necessity of doing what he could have so easily avoided. "The President would have felt himself relieved from a heavy and painful responsibility, if in the charter of the bank, Congress had reserved to itself the power of directing at its pleasure, the public money to be elsewhere deposited, and had not devolved that power exclusively"—not on the President—no, sir, but "on the Executive departments!" And again: "Although, according to the frame and principle of our Government, the decision would seem more properly to belong to the Legislative power," very sound republican doctrine this—"yet, as the law has imposed it"—not upon the President, but "upon the Executive department, the duty ought to be faithfully and firmly met." "It would ill become the Executive

branch of the Government to shrink from any duty which the law imposes upon it, and fix upon others the responsibility which belongs to itself." Now, at length, the idea is presented to us in a new aspect, emerging from the studied ambiguity of "executive departments and executive branches," and we have it: "While the President anxiously wishes to abstain from the exercise of doubtful powers, and to avoid all interference with the rights and duties of others, he must yet, with unshaken constancy, discharge his own obligations." So it would seem that the President has exercised this power from the sheer necessity of the case—a case of great public emergency, that admitted of no delay—and that he has assumed this high responsibility with the utmost pain and reluctance! To be sure, sir, everybody knows that executive power, especially that high order of executive power which rises above the law, is always assumed with great and unfeigned reluctance. It would have been exceedingly painful to Cæsar to be constrained to assume the kingly office; but Cæsar put by the crown. It was no less painful, as it would seem, to Richard the Third to accept the bloody crown of his murdered relatives, when urged upon him by the clamor of his own partisans, and by his own procurement; but, like the President, he could not resist the call of his countrymen, saying, as Shakspeare has it:

"I am not made of stone,
But penetrable to our kind entreaties,
Albeit against my conscience and my soul."

Of all the difficulties I have ever encountered in deciphering any document, the greatest is that of ascertaining the ground upon which the power of removing the deposits has been assumed by the President. What does that document import? Does it claim the power of removing the deposits as belonging to the President? Does it admit the power to exist in the Secretary of the Treasury? Does it imply that the removal is the act of the President or of the Secretary? With the utmost exertion of my humble powers of interpretation, I have been unable to decide. I have been so much struck with the resemblance between the ambiguous title to the crown set forth by Henry the Fourth of England, and that set up by the President to remove the public deposits, that I could not resist the temptation of looking into Hume for the record of the former document, preserved by the historian as a rare specimen of the perspicuity with which men speak when they attempt to justify the usurpation of power. It is in these words:

"In the name of Father, Son, and Holy Ghost. I, Henry of Lancaster, challenge this rewme of Ynglande, and the crown, with all the membres, and the appurtenances; also I that am descendit by right line of the blode, coming from the Gude King Henry therde, and throge that right that God of his grace hath sent me, with helpe of Kyn and of my friendes to recover it; the which rewme was in poynt to be ondone by default of governance, and ondoynge of the Gude laws."

Here, sir, is the title of Henry IV. to the crown of England, and there is the title of the President to the power of removing the deposits. I will not undertake to decide which is the more perspicuous document, but will leave it to be decided by those who have more skill in such comparisons than I have.

Sir, it is too apparent to be disguised by these bungling devices that the President of the United States is the officer by whose sole and despotic will the deposits have been removed from the Bank of the United States. He alone is the responsible agent in this transaction. It is an utter perversion of language to say that the Secretary of the Treasury has removed the deposits. It is absolutely false; (I speak in a legal sense;) he had no more agency, moral or legal, than the iron pen by which the order of removal was written. The Secretary of the Treasury remove the deposits! He refused to remove them! and has paid the penalty of his honest independence, by being discarded from office.

Is this to be gotten over and evaded by producing an order signed by the present Secretary of the Treasury, and saying, "Here is proof conclusive that the removal of the deposits is not the act of the President?" Shall we close our eyes to the true origin and character of this order? Shall we not look back beyond it to the circumstances under which it was given, and the real agency by which it was produced?

In what manner, and for what purpose, was the present Secretary of the Treasury brought into office? Sir, he came into office through a breach in the constitution; and his very appointment was the means of violating the law and the public faith. He was brought into his present station to be the instrument of executive usurpation. And yet, sir, because his name is attached to the order, we are gravely told that the Secretary of the Treasury removed the deposits! It is an insult to the common sense of the nation to say so. This officer was made to do it by the President, who had no more right to remove the public treasure than I have.

Sir, shall we be told that the President, from the bare fact of his appointing men to office, has a right to assume to himself all the powers conferred upon them by law? He appoints the Federal judges. Let us suppose that these judges hold their offices by the tenure of executive pleasure; and that when some State prisoner should be under trial, the President should say to the presiding judge—the chief justice, for example—"Condemn that man," or, as the tyrant Richard said, "I wish the bastards dead." If the chief justice should refuse to obey this executive order, and claim the right of judging for himself, would the President be authorized to dismiss him from office? Would he have a right to tear off the ermine from his shoulders, and place it upon a mere instrument, who would do the dead of blood? Why not, sir? It would be perfectly justifiable, accord-

ing to the logic by which the present usurpation is attempted to be justified.

I will now proceed to consider the only substantial ground assigned by the Secretary for the removal of the deposits. It is a ground which, if it were true in point of fact, would be entitled to the consideration of the House. It is alleged that the unusual and unnecessary curtailment of the Bank of the United States, from the 1st of August till the 1st of October, had produced such extensive embarrassment in the commercial community, as to render it absolutely necessary for him to act so promptly in the business, that he could not even wait until Congress should again be in session. If this were true—if it can be shown that the bank has pursued an unusual and unjustifiable course in curtailing its discounts to oppress the community, this would certainly be a reason of considerable weight, justifying the course pursued by the Secretary of the Treasury.

But what are the facts? We are told that from the 1st of August to the 1st of October, the bank reduced its loans to the enormous amount of between six and seven millions of dollars; whereas, in truth, the bank in that period reduced its discounts only one million ten thousand dollars! I repeat, sir, that the discounts of the bank—I speak technically—were reduced only to this extent; and the whole amount of the reductions in all the operations of the bank, including the domestic bills purchased, (which are not loans,) was little more than four millions of dollars; and yet we have been officially informed by the Secretary that the reductions of the bank, or, to use his peculiar language, its "collections from the community," have amounted, in two months, to upwards of six millions of dollars. It is worth while, sir, to look a little more minutely into the process by which the Secretary reaches this financial result. The sum of \$6,334,000, set down as the precise amount of the curtailment, is made up by adding to the discounts proper, and domestic bills of exchange purchased, the increase of the public deposits amounting to upwards of two millions. Now, sir, whether we consider the Secretary as using the technical language of banking, or the language of common sense, I cannot but regard this as a gross attempt to impose upon the community. What does it amount to? That the increase of the public deposits is equivalent to a reduction of the discounts of the bank. In other words, the bank is condemned for not extending its discounts by lending out the Government deposits, when the Government was notoriously making arrangements to remove these deposits. Yea, sir, the bank that has been denounced for extending its discounts at a period of great commercial embarrassment—the bank that had on that very ground been charged with using its funds to control the elections—that very bank is now denounced from the same quarter, because, when the public deposits were about to

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be removed by a lawless exercise of power, it did not extend its discounts upon the faith of those deposits. Can any thing be more characteristic of the capricious despotism exercised over the bank? The directors of the bank would have deserved to be cashiered, if they had not provided for the approaching storm, by preparing to deliver up the public deposits, instead of lending them out under the existing circumstances.

I will now proceed, sir, to consider that charge against the bank which is the real moving cause of this persevering and relentless persecution. It is, as the Executive expresses it, that the bank "has attempted to acquire political power"—a charge unknown to any code of law, moral or political, and of that fearful vagueness which indicates the arbitrary spirit in which it originates. The first specification under this charge is founded on a resolution of the board of directors, authorizing the president of the bank to have certain documents printed to illustrate its operations. To my mind, this seems to be a very harmless resolution; but as the President of the United States has denounced it as a dangerous precedent, clothing the president of the bank with powers subversive of the liberties of the country, I will beg leave to read it for the information of the House:

"Resolved, That the president be authorized to cause to be prepared and circulated such documents and papers as may communicate to the people information in regard to the nature and operations of the bank."

Now, I pray to know, sir, what application of the funds of the stockholders could be more useful and judicious, when the institution and its credit were assailed by every species of misrepresentation and calumny? But the President of the United States seems to regard it as equivalent to clothing the president of the bank with the whole fiscal and military power of the country. He says:

"Was it expected, when the moneys of the United States were directed to be placed in that bank, that they would be put under the control of one man, empowered to spend millions without rendering a voucher or specifying the object? Can they be considered safe with the evidence before us that tens of thousands have been spent for highly improper, if not corrupt purposes; that the same motives may lead to the expenditure of hundreds of thousands, and even millions more? And can we justify ourselves to the people by longer lending to it the money and power of the Government, to be employed for such purposes?"

It seems that the President of the United States has an instinctive abhorrence for discretionary executive power delegated to any one but himself. What is this power vested in the president of the bank? It is not only harmless and innocent in its object, but perfectly safe as a responsible exercise of power. The president acts under authority of the directors, with whom he is daily associated, who have daily opportunities of inspecting his proceedings, and

to whom he is, therefore, under a constant and direct responsibility for the exercise of the discretion vested in him as to the amount he may spend in printing documents explaining the operations and vindicating the credit and the character of the bank. Yet the President of the United States thinks this very insignificant power subversive of public liberty, when he is himself clothed with a discretion a thousand times more dangerous. Sir, when I recur to what was done here at the last session; when I reflect that an act was passed—I will not call it a law—and that, too, at the special instance and request of the President, clothing him with the power not only to spend the whole revenue, but to exhaust the credit of the nation in arraying a military power against a sovereign State of this Union, I confess I cannot but feel surprise and disgust to hear that President magnifying a mole-hill into a mountain, and talking about the danger of executive discretion! A simple resolution authorizing the president of the bank to print explanatory documents is a monstrous proceeding; but an act clothing the President of the United States with dictatorial power is all perfectly fair and proper! This brings very forcibly to my recollection another Dutch anecdote; and as I am in the way of drawing illustrations from this excellent class of our citizens, from whose very eccentricities lessons of wisdom may be deduced, I beg leave to relate it. In a certain Dutch vicinity—I will not say Kinderhook, lest a question of location should arise—a lottery was authorized, and on a certain day the neighbors all assembled to witness the turning of the wheel. The drawing commenced, and blank after blank was drawn by the principal persons in the neighborhood, until a general suspicion of unfairness began to prevail. A large bully stepped forward as the champion of his neighbors, threatening to smash the wheel to atoms, and declaring that it was all a "*villainous piece of cheating*." In the midst of his rage, when every one was trembling for the safety of the wheel, a friend stepped up to him with great exultation, exclaiming, "My dear sir, have you heard the news? You have drawn the highest prize." "What, (said he,) the highest prize! *It's as fair a ding as ever was.*"

And so, sir, in the estimation of General Jackson, the discretionary power to print a few documents, when conferred on Mr. Biddle, is all a piece of cheating; but when a discretionary power of levying war and spending money without any limitation is conferred upon himself, it is as fair a thing as ever was.

Sir, Congress is peculiarly called upon to vindicate its right to the guardianship of the public treasure, because the President has attempted to forestall its decision, and places it in a situation which may preclude the free exercise of its judgment. Why, sir, was the change of the deposits made only sixty days before the meeting of Congress? I will tell you the reason. The President was fearful that he could not in-

duce even a drilled majority to do that which, if already done upon his responsibility, it might be induced to sanction. He is a military man, sir, and he knows the effect produced in desperate emergencies, when the general throws himself into the breach, and calls upon his soldiers to rush to his rescue, or witness his destruction. There could not have been selected a time for performing this act better calculated to show the President's defiance of the legislative authority. And yet, sir, the Secretary of the Treasury has come here with the miserable—I had almost said impudent—pretence that he was constrained to do it by the necessities of the country. It is not true, sir. the President had only to announce that the deposits would not be removed until the question should be first submitted to Congress, and the public mind would have been put at ease. The Secretary well knew this. But the Executive Government has thought proper to thrust itself forward, and place the subject in such a position as almost to deprive Congress of its free agency. We are now told by a gentleman from New York, (Mr. CAMBRELENG,) that the restoration of the deposits to the Bank of the United States was an idea that struck him with alarm; that the country had already suffered too much from one removal to be able to endure the effects of another. It is for this reason that I have made my resolution prospective. I am not so reckless of the sufferings of the community as to take away the money which has been actually deposited in the selected banks. I know we shall be told that the picture of public distress is exaggerated. One gentleman, indeed, (Mr. VANDERPOEL,) told us the other day that it was all a humbug to ascribe the prevailing distress to the removal of the deposits. If this be a humbug, it is a very melancholy one. But whatever gentlemen may have thought three days ago, I believe there is no one who would now be bold enough to say that the removal of the deposits has had no agency in producing the public distress. The calamity can hardly be over-estimated. Any idea which we can form of it here, will fall short of the sad reality. I confess, sir, I have been astonished at the accounts brought by every mail. I did not believe that a scene of distress so sudden and extensive could have been produced by the miserable tampering of the Government with the system of commercial credit. It is a mistake to suppose that it is confined to the merchants or to the commercial cities. It will extend like a wave, until it affects every class, and reaches the farthest limits of the country. In relation to one of the great national interests, I can speak with positive knowledge as to the depression this measure has produced in the value of property. I confidently believe that every cotton planter who did not sell his crop at the commencement of the season has lost two cents on every pound of his cotton, in consequence of this measure. It is a fact without precedent, but conclusively shown, by a

comparison of the Liverpool and Charleston prices current, that the price of cotton has been habitually five cents lower in this country, at any given time, than the European prices published at the same time here. I presume all other descriptions of property have experienced a similar depression, and can well imagine that all property in stocks, public or private, must have suffered even in a greater degree. It is stated, on good authority, that the stock of the Girard Bank, the one selected in Philadelphia to receive the Government deposits, has fallen from 70 to 54, since the 1st of October.

And now, sir, in concluding my remarks, I must be permitted to say, that, if we ratify this proceeding of the President and Secretary of the Treasury, by refusing to order the restoration of the deposits, in addition to the present suffering and distress of the people, we shall permit a system of political banking to be entailed upon the country, utterly incompatible with public liberty. If we intend that it shall ever be arrested, it must be done now; for if we give time to complete the establishment of this confederacy between the Executive Government and the State banks in all its ramifications of dependent interests, I will defy all human power to break the league or resist the man who wields its power. Is it not apparent that it will convert the deposit banks into dependants and partisans of the President? Is it not equally apparent that the politician who controls these banks will indirectly control all those who are indebted to them, and thus obtain an absolute control over the public will? If this House shall confirm the act of the President, it will be, in my humble opinion, establishing in perpetuity a corrupting connection between the banking capital and the political power of the country, and placing them both in the hands of one man. I trust in God that the country will not be destined to such a condition by the vote of this House. If it should, I can only pray that a power more than human may be interposed for its rescue.

MONDAY, December 30.

The Deposit Question.

The House resumed the consideration of the motion to refer to the Committee of Ways and Means the reasons assigned by the Secretary of the Treasury for the removal of the public deposits, with Mr. McDUFFIE's motion for instructing the committee to report a bill for restoring them to the Bank of the United States.

Mr. POLK said the gentleman from South Carolina opened his argument by assuming that the public deposits had been unlawfully removed from the Bank of the United States; that the President is, by reason thereof, a usurper and a tyrant; and he informed us that this was the great constitutional question we were about to examine. Yet, sir, the gentle-

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man did not think it proper to furnish us with any of the arguments by which he maintains these propositions, but seemed to regard them as self-evident. It is true, the gentleman was unmeasured in the violence of his charges against the President. He told us that he had trampled the constitution in the dust; and he seemed to be as much enraged on the occasion as the Dutch bully he spoke of was with the lottery wheel, and ready to strike the administration into smashes; and with about as much reason. The political wheel had turned out badly for the gentleman. But if, perchance, it took another turn; if a star should be in the ascendant from a new quarter; if he should draw the prize, in a word, why, then, sir, it would be "as fair a thing as ever was."

It is easy, sir, to say hard things. It is fortunate, however, for the Chief Magistrate of this country, that his character is placed at such an elevation that it requires no aid from the representatives of the people on this floor to sustain it when assailed. He is above the reach and power of any remarks made here.

But, sir, it is said that the President is a usurper, a tyrant, &c., for having removed the late Secretary of the Treasury. This argument supposes that the Secretary of the Treasury is responsible to Congress, and not to the President, for the manner in which he discharges the duties of his office. Now, sir, I undertake to affirm that the Secretary of the Treasury is not only not independent of the President of the United States, but, if Congress were to pass a law to make him so, they would exceed their power, and the law would be void and of no effect. The Secretary is not only not independent of the Executive, but it is not in the power of Congress to make him so. By whom is the Secretary of the Treasury appointed? Not by Congress. The law creates the office, but the appointment to it is made by the President of the United States, with the consent of the Senate. I beg pardon, sir, for entering upon a question here which has for forty or fifty years been considered a settled question. Does the gentleman mean—do those who think with him mean—that the President has not the power of removing from office the Secretary of the Treasury? By whom is he appointed? By the President of the United States, with the advice and consent of the Senate. The President, says the constitution, "shall nominate, and, by and with the advice and consent of the Senate, shall appoint ambassadors, other public ministers, and consuls; judges of the Supreme Court and all other officers of the United States whose appointments are not herein otherwise provided for, and which shall be established by law. But the Congress may, by law, vest the appointment of such inferior officers as they think proper in the President alone, in the courts of law, or in the heads of departments." The heads of departments, therefore, are not "inferior officers," and the power of appointment is not, and cannot be,

in the President alone, or in the courts of law; much less in Congress. Further, Congress cannot by law acquire the power of controlling the appointment of heads of departments. Under another clause of the constitution, Congress may indeed appoint their own officers; but they have no power over even the manner of appointment of any other than inferior officers in any other department of the Government.

By what tenure does the Secretary of the Treasury, when appointed by the President, hold his office? Although there is no express clause in the constitution authorizing his removal from office at the pleasure of the President, yet the power to remove him flows from the nature of the constitution. He holds his power *durante bene placito*—during the pleasure of the President. The judges of the courts of the United States hold their offices, indeed, during good behavior, or for life; but I deny that any other officer of the Government holds his office by a similar tenure. The President and the Vice President of the United States hold their offices, each, for a term of years. The period of service of other officers is not limited by the constitution; but according to the practice of the Government in the time of the contemporaries of the constitution, and ever since, they have been considered to hold their offices at pleasure. If it were not so, indeed, what would be the consequence? If the Secretary of the Treasury could be made independent of the President, still there must be a power somewhere to remove him. If not, he must hold his office during life, which I have already shown is inconsistent with the constitution.

But, sir, independently of these views, the act itself creating the Treasury Department expressly recognizes in the President the constitutional power to remove the Secretary from office. He may remove without any assigned reason whatever, if he chooses to do so. The power to remove is absolute and unqualified. And if he may remove from office without assigning any reason whatever, surely he may with reasons given. Gentlemen may indeed differ in opinion as to the validity of the reasons assigned; but that the President has the power to remove, is unquestionable. Nor does he derive it from the act of Congress creating this Department, but holds it from and under the constitution itself. The act recognizes it as a power in him already: it does not confer on him the power to remove, lest it might seem that he held it by grant of the Legislature. The terms employed are such as clearly recognize the power to be from the constitution. The act says that, when the Secretary shall have been removed by the President, or shall be absent or indisposed, another officer may, for the time being, discharge the duties of his office.

I take it, sir, the only power the President has exercised is one not only clearly conferred

on him by the constitution and by the act creating the Treasury Department, but one which has been exercised without objection from the very foundation of the Government to the present hour. The power is exercised under his responsibility to the country. It is not to be exercised capriciously, though it may be without the assignment of any reason. If it be abused, the corrective is found in the fact that the executive power returns every four years to the hands of the people; and, if that be too long to wait, the President can be reached by impeachment.

MONDAY, January 6.

Present of a Lion and two Horses from the Emperor of Morocco.

The CHAIR presented to the House the following Message from the President of the United States.

WASHINGTON, January 6, 1834.

To the House of Representatives:

I communicate to Congress an extract of a letter recently received from James R. Leib, consul of the United States at Tangier, by which it appears that that officer has been induced to receive from the Emperor of Morocco a present of a lion and two horses, which he holds as belonging to the United States. There being no funds at the disposal of the Executive applicable to the objects stated by Mr. Leib, I submit the whole subject to the consideration of Congress, for such direction as in their wisdom may seem proper. I have directed instructions to be given to all our ministers and agents abroad, requiring that, in future, unless previously authorized by Congress, they will not, under any circumstances, accept presents of any description from any foreign State.

I deem it proper, on this occasion, to invite the attention of Congress to the presents which have heretofore been made to our public officers, and which have been deposited, under the orders of the Government, in the Department of State. These articles are altogether useless to the Government, and the care and the preservation of them in the Department of State are attended with considerable inconvenience.

That provision of the constitution which forbids any officer, without the consent of Congress, to accept any present from any foreign Power, may be considered as having been satisfied by the surrender of the articles to the Government, and they might now be disposed of by Congress to those for whom they were originally intended, or to their heirs, with obvious propriety, in both cases; and, in the latter, would be received as grateful memorials of the character of the parent.

As, under the positive order now given, similar presents cannot hereafter be received, even for the purpose of being placed at the disposal of the Government, I recommend to Congress to authorize by law that the articles already in the Department of State shall be delivered to the persons to whom they were originally presented, if living, and to the heirs of such as may have died.

ANDREW JACKSON.

The Message was referred to the Committee on Foreign Relations.

TUESDAY, January 7.

The Deposit Question.

The House resumed the consideration of the motion to refer to the Committee of Ways and Means the reasons assigned by the Secretary of the Treasury for the removal of the public deposits, with Mr. McDuffie's motion for instructing the committee to report a bill for restoring them to the Bank of the United States.

Mr. BINNEY said: Mr. Speaker: The amendment offered by the gentleman from South Carolina (Mr. McDuffie) proposes to instruct the Committee of Ways and Means "to report a joint resolution, providing that the public revenue, hereafter collected, be deposited in the Bank of the United States, in conformity with the public faith, pledged in the charter of the said bank." It, therefore, presents directly the question of the sufficiency of the Secretary's reasons for removing the public deposits from the bank, and for making the future deposits elsewhere; and brings up for the consideration of this House every thing that can bear upon the great topics of national faith and public safety that are involved in the issue.

I mean to discuss this great question, sir, as I think it becomes me to discuss it, on my first entrance into this House; as it would become any one to discuss it, having the few relations to extreme party that I have, and being desirous, for the short time that he means to be connected with the station, to do or omit nothing that shall be the occasion of painful retrospect. I mean to discuss it as gravely and temperately as I can: not, sir, because it is not a fit subject for the most animated and impassioned appeals to every fear and hope that a patriot can entertain for his country—for I hold, without doubt, that it is so; but because, as the defence of the measure to be examined comes to this House under the name and in the guise of "reason," I deem it fit to receive it and to try its pretensions by the standard to which it appeals. I mean to examine the Secretary's paper, as the friends of the measure say it ought to be examined—to take the facts as he states them, unless in the same paper, or in other papers proceeding from the same authority, there are contradictions; and then I must be allowed the exercise of private judgment upon the evidence—to take the motives as the Secretary alleges them—to add no facts, except such as are notorious or incontestable, and then to ask the impartial judgment of the House upon my answer.

Sir, the effort seems to be almost unnecessary. The great practical answer is already given by the condition of the country. No reasoning in this House can refute it; none is necessary to sustain it. It comes to us, it is hourly coming to us, in the language of truth, and soberness, and bitterness, from almost every quarter of

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the country; and if any man is so blind to the realities around him as to consider all this but as a theatrical exhibition got up by the bank, or the friends of the bank, to terrify and deceive this nation, he will continue blind to them until the catastrophe of the great drama shall make his faculties as useless for the correction of the evil, as they now seem to be for its apprehension.

Mr. Speaker, the change produced in this country, in the short space of three months, is without example in the history of this or any other nation. The past summer found the people delighted or contented with the apparent adjustment of some of the most fearful controversies that ever divided them. The Chief Magistrate of the Union had entered upon his office for another term, and was receiving more than the honors of a Roman triumph from the happy people of the middle and northern States, without distinction of party, age, or sex. Nature promised to the husbandman an exuberant crop. Trade was replenishing the coffers of the nation, and rewarding the merchant's enterprise. The spindle, and the shuttle, and every instrument of mechanic industry, were pushing their busy labors with profit. Internal improvements were bringing down the remotest west to the shores of the Atlantic, and binding and compacting the dispersed inhabitants of this immense territory as the inhabitants of a single State. One universal smile beamed from the happy face of this favored country. But, sir, we have had a fearful admonition that we hold all such treasures in earthen vessels; and a still more fearful one, that misjudging man, either in error or in anger, may, in a moment, dash them to the earth, and break into a thousand fragments the first creations of industry and intelligence.

Sir, the Bank of the United States held of the public deposits of every description, on the 1st of August, 1883, according to the statement of the Secretary of the Treasury, the sum of \$7,599,981; and they were in a course of increase, which the bank knew as well as the Secretary, up to the 1st of October, 1883, when they amounted to the sum of \$9,868,485; say ten millions of dollars. How was this money to be paid? The Secretary of the Treasury had a right to demand its payment, when, where, and in such sum or sums as he thought fit. He had such a power to do it in point of form, that the bank could not question its exercise in point of right. It was the duty of the bank to be prepared to pay it; and the question must be answered, how was the money to be paid?

The answer given to this question, and given with a view to involve the bank in odium and prejudice, is this: that she ought to have paid it, or whatever the Secretary chose to require of it, in specie, from her vaults, without distressing the community, by calling upon others to pay their debts to her. To say nothing of the fact, sir, that the bank has always paid every one, the Treasury included, in specie,

unless they preferred something less, the doctrine that she was to pay in specie to the Treasury, without putting herself in a condition to require it from some one else, is a doctrine which I cannot admit: it is one that will not bear examination.

The bank, on 1st October, 1883, had specie in all her vaults to the extent of \$10,663,441. If she had been so situated at that time as that this, or any considerable portion of it, had left her vaults, without being brought back again, the consequences might have been of the most pernicious character to herself and to the whole country. The bank had a circulation of more than eighteen millions to sustain, exclusive of her private deposits. A new era had opened. A new system was about to be adopted in the fiscal affairs of the Union. Its effects were to be seen. The extent to which the Treasury was about to assail her could not be known. The slightest interruption, the slightest fear of interruption, to her promptness and punctuality, would have raised that apprehension for her stability which has been excited for others. Sir, to ask this bank, under these circumstances, to empty her vaults of specie, without taking any measures of precaution to replenish them, would have been to ask the able directors to throw away their whole capital of reputation, and that of the bank also. They would have proved themselves unworthy of the occasion on which they were called to act. What, sir, at the very outbreaking of the storm, when no human intelligence could tell how long it was to last, or what would be the fury of its violence, to ask the pilots of this bark to keep all her sails set, and to throw her ballast overboard! No, sir; the bank was bound to do as she has done. She was bound to prepare for the trial. She was bound to strengthen her position, by diminishing her discounts; and she has diminished them, in my judgment, most wisely, most discreetly, and most tenderly. And yet, sir, it is from this circumstance—the mere reduction of loans and purchase of bills, without looking either to the necessity for that reduction, or to the extent and effect of it—that some men of honest and upright minds have been prejudiced against her. I can show, without difficulty, that it is a mere prejudice.

The bank had to pay over ten millions of public deposits, and she ought not to have exposed herself to lose any material portion of her specie, without being in a condition to recall it. She had then but one resource, and that was, unless the interest of her debtors did of itself produce the effect by diminishing their loans, to call upon them to assist her in paying the amount. There was no other way open to her; and the degree to which she must call, in order to obtain assistance to a given extent, is a point in practical banking to which it is material for gentlemen to advert.

Sir, the Treasury might have pursued a course that would have mitigated the evil, by diminishing the cause of alarm. Having the

control of this demand, they might have made known to the bank the times, proportions, and places of the intended transfers, and have thus given assurance to the bank that its reductions to meet the emergency need not exceed the proposed demand. But the Treasury took a different course; and, if any thing could raise the embarrassment of the bank, and the community also, to the highest degree, it was the course which the Treasury pursued.

Mr. Speaker, what was that course? Is any gentleman in this House ignorant of it? The honorable member from Tennessee (Mr. POLK) has read to the House a passage from a pamphlet which he was pleased to call the manifesto of the bank; I shall therefore regard that publication as authentic, and I will refer gentlemen to the correspondence between the cashier of the bank and the Treasurer of the United States that is appended to it. They will there find what, by agreement with the bank, had been the practice of the Treasury when there was no alarm in the community, when the bank was admitted to be in a state of perfect security, and free from the apprehension of embarrassment. The Treasury practice was to send to the bank a daily list, specifying every draft upon the bank from the Treasury, showing the amount drawn for and the place of payment, but omitting the names of the persons to whom payable, to guard against fraud. Another list was sent weekly, with the dates, amounts, places of payment, and names of the payees. These were intended not only to guard the bank against fraud and surprise, but to enable the bank to regulate the accommodations to its customers, as they were thus apprised of the points at which their funds would be wanted. Nothing surely could be more natural than to continue a practice like this, when the deposits were to be permanently removed. It could not be doubted by any one that such a proceeding must cause uneasiness in the public mind; and the very first precaution which prudence would have suggested to mitigate the alarm was the continuance and increase of these safeguards of the bank; certainly not that, at the very commencement of the alarm, they should be discontinued. But such was the fact. That they were discontinued, and that the bank, misled and deceived, had to deal with the Treasury as with an enemy, is an event which belongs exclusively to the present day, and to the existence of personal feelings in the department which directed the Treasurer, wholly unbecoming the official transactions of any Government.

Still, sir, it is not easy to account for the height of the present distress by the mere change of the deposits, nor by the diminished use of them in the State banks, when compared with their use in the Bank of the United States, from which they were taken. These circumstances had an effect, but they do not stand alone. There is an intense apprehension for the future connected with this operation—an apprehension which springs from the Treas-

ury determination that nearly the whole of the existing circulation of exchanges is to cease; and cease it must, to a great extent, if the Bank of the United States is not to collect the public revenue.

The Bank of the United States, Mr. Speaker, has performed her great offices to this people by the concurrence of two peculiarities, which belong to her—her structure and her employment in the collection of the public revenue. No State banks, by any combination, can effect the required exchanges to a considerable extent. No Bank of the United States, without the aid of the public revenue, can effect them to the extent which the necessities of trade require.

[Mr. BUNNEY continued to argue the question at great length, and concluded as follows:]

Sir, the change of the deposits is an extraordinary mode of preventing their application to the purposes of political power. Before their removal, they were in a bank not possessing political power, nor capable of using it. They are now wielded by those who possess it, and who are more or less than men if they do not wish to keep it. Then, they were in one bank, under one direction; now, they will be in fifty. Then, they were in a bank which political power could not lay open to its inquiries and control; now, they are in banks that have given a stipulation for submitting all their acts and concerns to review. Then, if these deposits sustained any action at all, it was in the safest form for the people—action against power in office; now, its action is in support of that power, and tends to the augmentation of what is already great enough.

I say, in conclusion upon this point, if these publications are deemed by this House to have been unlawful, return the deposits till the bank has been heard. Go to the *scire facies*—give to the bank that trial by jury which is secured by its charter, and is the birthright of all. Ask the unspotted and unsuspected tribunals of the country for their instruction. Arraign the bank upon the ground either of sedition, or grasping at political power. There was ample time for it, and still is; and there is a great precedent for it, which I commend to the consideration of this House.

Sir, in the worst days of one of the worst princes of England, (I mean Charles the Second,) the love of absolute rule induced him to make an attempt upon the liberties of the city of London, whose charter he desired to overthrow. He complained that the common council had taxed him with a delay of justice, and had possessed the people with an ill opinion of him; and, by the means of his ministers of the law, and by infamously packing the bench, having promoted one judge who was not satisfied on the point, and turned out another who was not clear, he succeeded in obtaining a judgment, under which the liberties of that ancient city were seized by the Crown. But, when the revolution expelled his successor, and the principles of the British constitution came in with the

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House of Orange, an early statute of William and Mary reversed the judgment as illegal and arbitrary; and from that time it has been the opprobrium of the bench, and the scorn of the profession.

The account of it which is given by Burnet is thus: "The court, finding that the city of London could not be wrought on to surrender their charter, resolved to have it condemned by a judgment in the King's Bench. Jones had died in May; so now Pollexfen and Treby were chiefly relied on by the city in this matter. Sawyer was the Attorney-General, a dull, hot man, and forward to serve all the designs of the court. He undertook, by the advice of Sanders, a learned, but very immoral man, to overthrow the charter. The two points upon which they rested the cause were, that the common council had petitioned the King upon a prorogation of Parliament, that it might meet on the day to which it was prorogued, and had taxed the prorogation as that which had occasioned a delay of justice: this was construed to be the raising of sedition, and the possessing the people with an ill opinion of the King."—"When the matter was brought near judgment, Sanders, who had laid the whole thing, was made chief justice; Pemberton, who was not satisfied on the point, being removed to the Common Pleas on North's advancement. Dolbin, a judge of the King's Bench, was found not to be clear; so he was turned out, and Wilkins came in his room. When sentence was to be given, Sanders was struck with an apoplexy, upon which great reflections were made; but he sent his judgment in writing, and died a few days after." As the only precedent which the books present to us of forfeiture of charter for sedition, or an interference with political power, it is not without instruction.

Sir, these reasons of the Secretary being one and all insufficient to justify the removal of the deposits, the question of remedy is the only one that remains. The State of the country requires the return; but the question of return has nothing to do with the renewal of the charter. If renewal were the object, I should say, Do not put them back; leave them as they are; make no provision for the future, and see, at the end of two years, to what relief the people will fly. But, sir, let us save the country from this unnecessary suffering. Return them, and the mists will clear off from the horizon, and the face of nature smile as it did before. Return them, and make some provision for the day when the capital of this bank is to be withdrawn from the country, if it is to be withdrawn. Provide some control, some regulation of your currency. The time is still sufficient for it, and the country requires it. If, indeed, this bank is not to be continued, nor another to be supplied, nor a control devised to prevent the State banks from shooting out of their orbits, and bringing on confusion and ruin, then I confess that I see no benefit in putting off the

evil for two years longer. The storm must come, in which every one must seize such plank of safety as he may out of the common wreck; and it is not the part either of true courage or of provident caution to wish it deferred for a little time longer.

Sir, I have done. I have now closed my remarks upon the question of the public deposits, second in importance to none that has occurred in the course of the present administration, whether we regard its relations to the public faith, to the currency, or to the equipoise of the different departments of our Government. It is with unfeigned satisfaction that I have raised my feeble voice in behalf of the amendment offered by the gentleman from South Carolina, whose enlightened labors in this great cause, through a course of years, have inseparably connected his name with those principles upon which the security, the value, and the enjoyment of property depend; and it will be sufficient reward for me if I shall be thought not to have impaired the effect of his efforts, nor to have retarded the progress of those principles to their ultimate establishment. For myself, I claim the advantage of saying that, as I have not consciously uttered a sentiment in the spirit of mere party politics, so I trust that my answers to the Secretary will not be encountered in that spirit. If the great and permanent interests of the country should be above the influence of party, so should be the discussions which involve them. It ought not to be, it cannot be, that such questions shall be decided in this House as party questions. The question of the bank is one of public faith; that of the currency is a question of national prosperity; that of the constitutional control of the treasury is a question of national existence. It is impossible that such momentous interests shall be tried and determined by those rules and standards which, in things indifferent in themselves, parties usually resort to. They concern our country at home and abroad, now, and to all future time; they concern the cause of freedom everywhere; and, if they shall be settled under the influence of any considerations but justice and patriotism—sacred justice and enlightened patriotism—the dejected friends of freedom dispersed throughout the earth, the patriots of this land, and the patriots of all lands, must finally surrender their extinguished hopes to the bitter conviction that the spirit of party is a more deadly foe to free institutions than the spirit of despotism.

WEDNESDAY, JANUARY 8.

The following letter was received by the Speaker of the House, read, and ordered to lie on the table:

HOUSE OF REPRESENTATIVES, January 8, 1834.

SIR: I have the honor to inform you that my seat in the House of Representatives of the United States, over which you preside, has become vacant by res-

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ignation, addressed to the Executive of the State of Louisiana.

I have the honor to be, very respectfully,
Your obedient servant,
H. A. BULLARD.

To the HON. ANDREW STEVENSON,
Speaker of the House of Representatives.

TUESDAY, January 14.

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The House resumed the consideration of the motion to refer the Secretary of the Treasury's report on the deposits to the Committee of Ways and Means; the question being upon the motion of Mr. McDUFFIE to add to the motion for reference the following instructions to the said committee:

"With instructions to report a joint resolution, providing that the public revenue hereafter collected shall be deposited in the Bank of the United States, in compliance with the public faith, pledged by the charter of the said bank."

Mr. CAMBRELENG said: In debating this important question, Mr. Speaker, I shall endeavor to discard all political considerations. Indeed, sir, the friends of the constitution and of a sound currency find themselves, upon this bank question, in an attitude of neutrality between the two ancient parties which have governed this country since the adoption of the constitution; for, if the one gave the first blow, the other inflicted the deepest wound.

It is not necessary for me, sir, to undertake the defence of the Secretary of the Treasury. That officer has vindicated his own cause with ability, and, I may add—what is not less important in our public documents—with decorum. I wish I could pay the same compliment to the report of the bank committee. In discussing the question before us, I shall exercise the right—and I presume every member will do the same—of inquiring into the propriety of the measure adopted by the Executive branch of the Government; and of stating, on that much more important question, my reasons for believing that the deposits ought not to be restored to the Bank of the United States. In pursuing that course, I am sure I shall act in accordance with the views of the Secretary of the Treasury, notwithstanding the version given to his opinions by the gentleman from Pennsylvania, (Mr. BINNEY,) who makes that officer deny the right of this House to control the question. So far from claiming the exclusive control over the public deposits, the Secretary expressly says that "his right to designate the place of deposit was always necessarily subject to the control of Congress." But, sir, I can refer the gentleman from Pennsylvania to an authority which carries the right of the Treasury and of the Executive over the question far beyond any ground now assumed by the Secretary, and which, also, furnishes a very able

reply to the argument of the gentleman himself. When the conduct of the bank was the subject of debate in 1819, a gentleman who was a director of the Bank of the United States, (Mr. Sergeant,) contended that, "if we undertake to examine the general administration of affairs of the bank, or to investigate the conduct of particular directors, we are involved at once in the danger of an interference with the Executive. To that department it belongs to decide whether the public duty has been performed."

Neither, Mr. Speaker, shall I conceive it my duty to defend the Executive for interfering with the removal of the deposits. Were I to do so, I might engage in this grave and profound inquiry—whether the Treasury be an executive department or not. I might push my researches to an earlier period in our history, and involve one of our former Presidents in a much more serious difficulty than that in which we find the present Chief Magistrate. It is fortunate, indeed, that the important discovery, that the Treasury is not an executive department, had not been made in 1800; for, sir, in that year, according to the doctrine now maintained, a most flagrant outrage was committed upon the laws and the constitution. Congress, by the act of the 24th of April, 1800, authorized the President "to direct the various offices belonging to the several executive departments" to be removed from Philadelphia to Washington. In those simple days they actually forgot the Treasury altogether, and left it remaining in Philadelphia, where, according to the modern construction, it should have remained to this day. But the President, by an extraordinary act of usurpation, removed—not the deposits, sir—but the very department itself, presuming it to be a branch of the Executive! Fortunately for him, he did not live in our times, or we know not what might have been his fate. Mr. Speaker, I have no wish to treat the opinions or arguments of gentlemen lightly or with disrespect; but it seems to me that there is about as much solidity in this argument, that the Treasury is not an executive department, as there is in its concomitant, that directing the public revenue to be collected in Third instead of Chestnut Street arms the Executive with the powers of the purse and the sword, and endangers the liberties of my country.

Were I to vindicate the conduct of the President of the United States, I would defend him as he would defend himself, were he now arraigned at your bar. I would protect him with no Treasury shield. I would evade no question—shun no responsibility. I would tell you he had discharged a great public duty—a duty assigned him by the constitution—an authority paramount to all your laws; particularly one which never rested on any constitutional foundation; and more especially an act which, whether constitutional or not, has been violated by the party for whose benefit it was intended. I would ask you, who is there now living who has done more to re-establish the authority of

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the constitution? When the President came into office, he found this hall thronged with able and eloquent men, advocating the very doctrines which are now repudiated. When a gentleman from Virginia—that State which never has abandoned the constitution—rose to make a constitutional argument, it excited a smile of ridicule or derision. But now, how changed the scene! We are all constitutionalists—we are roused at the slightest infraction, real or imaginary, of the laws or the constitution. The tendency to consolidation is not only arrested, but we seem to be rushing to the opposite extreme. And to whom are we indebted for this change? To whom but that man who dared to “assume the responsibility”—who ventured to appeal from the decision of Congress to the judgment of his country—to him who has been the instrument in the hands of the people of effecting a great civil revolution? Yes, sir; he found at the commencement of his administration every department of the Government contaminated with unconstitutional doctrines; he found a fabric of Government erected here, of which the basis was the Bank of the United States; the superstructure, the tariff, and a national system of internal improvements. We have seen the parts of this edifice give way, till nothing remains but the foundation—the gentleman from South Carolina’s “rock of adamant.” Nothing remains, sir, but the Bank of the United States. On that question the President has discharged his duty—the people have ratified his decision—it now only remains for their representatives to put this question forever at rest. That opportunity is now presented. For the motion now pending is more important in its consequences than the mere restoration of the deposits; it involves not merely the temporary interests of trade and revenue, but the existence of the constitution and the permanent welfare of the country; it is, in effect, a motion to recharter the Bank of the United States. Yes, sir, after having debated and decided that question everywhere two years ago, it is again revived, and the country must be a second time agitated in a hopeless struggle to obtain a renewal of its charter. I had hoped, for the sake of the public tranquillity, that the institution would have submitted to its fate; but when I observe its course for the last three years, and its measures for some months past—when I see the recent movements abroad, with the hope—the vain hope, sir—of operating upon the fears and the political integrity of this House—when I notice a manifest design to alarm the public mind, to prostrate commercial credit, to distress trade, and to paralyze the industry of the country—I am almost compelled, sir, to respond the opinion expressed by the gentleman from Pennsylvania, (Mr. BERRY,) that “the time has come when gentlemen are disposed to do more for one cause than for the cause of their country.”

Mr. Speaker, to return to this question of the

removal of the deposits: I care not for these expenditures for the printing and distribution of essays, speeches, and reviews. It is the natural resort of every such institution. Besides, sir, whenever the people of this country can be convinced that a national bank is for their individual benefit; whenever they are persuaded that it is compatible with the permanent existence of republican institutions, or calculated to strengthen the defences of civil liberty, we may surrender the question; for a people entertaining such opinions will soon erect for themselves a Government of a very different character upon the ruins of the republic.

Nor, sir, do I object to the interference of the officers and dependants of the institution in our elections. I hold those who chartered the bank accountable for that. The gentleman from South Carolina (Mr. McDUFFIE) must seek in some other world for a people destitute of the passions of our race, before he will find a country where the officers and dependants of banks or Governments will not interfere with elections wherever the right of suffrage is enjoyed. It is unsafe to rest our public policy, or our political hopes, on any such artificial foundation. I am glad, sir, that the institution has engaged in our elections, and I congratulate my country that the President presented this question at an early day for its decision. It has been fully and fairly considered and settled, for the first time since the adoption of the constitution. The old bank was not founded on popular will, and the present institution was the last of those extraordinary measures which were projected in 1814, '15, and '16. The question has been at last fairly submitted to the people, and the result is the largest majority against the Bank of the United States that has ever been known since the adoption of the constitution. We have every reason, sir, to congratulate our country on the result of our late contests: it proves our devotion to the Union and the constitution; it proves that public opinion is as sound now, at the close of near half a century, as it was at the adoption of the constitution. It renews the patriot’s confidence in the stability of our republican Government.

Neither should I justify the removal of the deposits from any apprehension of the insolvency of the institution. On this point the gentleman from South Carolina, (Mr. McDUFFIE,) no doubt, unintentionally, has done me some injustice. I never supposed, however its affairs may have been managed, and whatever dividend its stockholders may ultimately receive, that the whole capital of thirty-five millions had been wasted. There was but one member of the committee to which we belonged who desired to express an opinion on the insolvency of the institution, and who would have done so, had his associates consented to it. And, sir, if the gentleman from South Carolina means to prosecute any one for this libel or slander, I must leave him to settle the question of dam-

ages with his friend the gentleman from Georgia, (Mr. CLAYTON.) But, sir, I did entertain and express the opinion that the Bank of the United States would be unable to pay the three per cents at the time when the Government would require their payment. Was that prophecy fulfilled? Were the three per cents paid on the 1st of July, or the 1st October, 1832, or even on the 1st of January, 1833? What was the condition of the Bank of the United States in February, 1832? I will not give the gentleman from South Carolina my opinions; I will give him the opinions of one entitled to the highest respect—of a gentleman now no more—to whose memory I should do injustice were I not to say that, for skill, ability, and experience in banking, he had no superior in this country; of one who had directed the affairs of one of our largest banking institutions, and who was, moreover, a decided friend of the Bank of the United States, and as decided an opponent of this administration. What account does he give of the condition of the bank, in his letter of the 16th February, 1832?

"I have seen the statement of the affairs of the bank for 1831 reported to Congress, and I confess I am alarmed at the picture. Their loans have been increased in the year from forty-five to sixty-six millions, while their specie has decreased from twelve to seven millions. The bank has now outstanding that vast amount of loans—(which it will find it difficult to reduce or call in,) its specie low—no funds in Europe to draw for; on the contrary, in debt a million and a half—exchange at eleven per cent. premium—specie shipping by every packet—by that of to-day \$140,000—more than twenty millions of their notes in circulation, which the pressure of the times will bring back upon them rapidly—and their private deposits liable to be withdrawn. They have acted like madmen, and deserve to have conservators appointed over them."

They have acted like madmen and deserve to have conservators appointed over them! This, too, the opinion of an experienced banker—a friend of the bank and an opponent to this administration. This was the origin of our present distress, as I shall presently show. Do we not see, sir, how impolitic it is in the Government to give to any such institution this immense power over the property and welfare of the country? Have we not, in this brief statement of its transactions for a single year—if I may borrow the language of the gentleman from Pennsylvania—"a fearful admonition that we hold all our treasures in earthen vessels"—"that misjudging man, either in error or in anger, may, in a moment, dash them to the earth, and break into a thousand fragments the finest creations of industry and intelligence?" I was happy to hear the gentleman from Pennsylvania say that he was not a member of the board in 1831. No, sir; had he been then a director of the institution, I am sure he never would have consented that, after fifteen years' existence, it should suddenly augment its commercial loans nearly fifty per cent. No, sir;

after the President had announced his hostility to the bank, when it was probable, nay, almost certain, that it would not be rechartered, he never could have consented to an expansion of its commercial loans of more than twenty millions, merely to increase the embarrassments of trade in curtailing that additional amount upon winding up its affairs. I have too much confidence in his judgment and humanity to believe that he would thus rashly sport with and put in jeopardy the property and welfare of the country.

But this is not all. The sudden expansion of the commercial loans of the Bank of the United States was made with the knowledge, as we are informed in the report of the bank committee, that "there were more than twenty-five millions and a half of the principal and interest of the public debt, payable in the year 1832—from 31st December, 1831, to 1st January, 1833—of which more than fifteen millions were to be paid in fifteen months, and between eight and nine of it to foreigners." Is it surprising that the bank should have been embarrassed and driven to every expedient in 1832? Yet, sir, the gentleman from South Carolina tells us "that the bank saved the country by its able management." The bank saved the country! Why, if it had not negotiated a loan of some thirteen millions with Government, and of four or five millions with foreign bankers, it would have been driven to the necessity of ruining its debtors, protesting our Treasury warrants, or of suspending its payments. Yes, sir, the gentleman from South Carolina would have discovered that his rock of adamant rested on a quicksand.

I do not wonder, Mr. Speaker, that both the gentleman from South Carolina and the gentleman from Pennsylvania wish to consider this affair of the three per cents as "an old story"—that they would cover it with the veil of oblivion. I wish, for the credit of the institution, that it had never occurred. What was the transaction? As early as March, 1832, before Government had made any arrangement for the redemption of these stocks, the board authorized the exchange committee to negotiate with the public creditors. Soon after this, the Treasury announced its intention to pay a portion of them in July. The president of the bank visited Washington, and made a positive arrangement with the Government to pay a part on the 1st of October, and the remainder on the 1st of January; the bank assuming a quarter's interest on a portion of them. After this arrangement had been made, without the knowledge of the Treasury, of the Government directors, or even of the board, an agent was despatched to England to negotiate with the holders of the three per cents, to the extent of five millions, to postpone the payment for twelve months, and conditionally for a further term. Was no stipulation violated? Why, sir, let me put a case to the gentleman from South Carolina. Suppose he had contracted with his

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factor at Augusta to receive his moneys and pay his debts; suppose that, in March, 1832, he had announced to his factor that he owed a debt of ten thousand dollars, which he wished him to pay, a part on the 1st of July, and the remainder on the 1st of October. The factor visits Edgefield, states to him that he had loaned the money to his customers, and that he should be obliged to distress them if he withdrew it at so early a period. He, however, makes an arrangement to pay the amount in October and January. After this, and without the knowledge of the gentleman from South Carolina, suppose the factor should go to the holder of the note, and arrange with him to postpone the payment for twelve months at three per cent. interest, while he would continue to loan the money of his employer to his customers at six. Now, suppose the gentleman from South Carolina should accidentally discover this arrangement; would he feel himself bound by his contract to continue that agency? Would not the contract be annulled? Suppose he had withdrawn his moneys from his hands; would he restore the deposits? No, sir, never—never would the gentleman from South Carolina confide in that agent again. Sir, I wish to do impartial justice in this matter between the bank and the Government. The conduct of the former cannot be justified; and, as it regards the latter, it is vain to talk of plighted faith and violated honor, for all its obligations were cancelled—forever cancelled—from the date of that transaction.

There is, however, another view to be taken of the relations existing between the bank and the Government. We have lessened the dignity of our Government by engaging in and sharing in the profits of one of the trades of the community. We have become discounters of notes, bill brokers, and dealers in coin and bullion. We have entered into partnership with an association of capitalists, and have employed seven millions of the public money in a great banking concern. Those whom we have appointed to represent our seven millions inform us that a loan to the extent of four or five millions has been negotiated by our partners, without their knowledge or consent; that they refuse to exhibit vouchers for the expenditures of the concern; that they deny to them all participation in the management of the co-partnership; and that they have no control whatever over any of its affairs. Now, sir, what would be the course of a capitalist under such circumstances? Would he not immediately withdraw his representatives, and announce to the world a dissolution of co-partnership? Would not all his obligations to his partners be cancelled forever? Surely, sir, the bank and the Government are not bound by less rigid notions of honor, law, or equity, than would govern the commercial community. We are, besides, bound to protect the directors, who represent us and guard the public interest in that institution. Had they been less faithful

to the Government, they would have been treated with more respect by their associates, and never would have been attacked by the bank or its friends.

Mr. Speaker, the Government was bound by other and higher obligations to remove the deposits—by its obligations to the country, growing out of the misconduct of the bank. Happy would it have been for our commercial interest had the Government alone been wronged, and had the calamitous effects of the bank's mismanagement not fallen upon the trade and industry of the country. We have heard much of the present distress, and of the removal of the deposits. The gentleman from Pennsylvania (Mr. BIRNEY) admits that the mere transfer of ten millions of money could produce no such results. Sir, no man can believe it who understands any thing of banking. The same measure produced no such effects in 1811; nor did a similar one to a greater extent in 1817, when the public deposits were transferred from the local banks to the United States Bank. We have drawn annually, for years past, more money from the bank to pay the principal and interest of the public debt. No, it is not the transfer of ten or twenty millions that can distress a nation, enjoying, like ours, a substantial prosperity. The present prostrated condition of commercial credit in this country is owing exclusively, whether through error or by design, to the mismanagement of the affairs of the Bank of the United States in the years 1831, '32, and '33—to the extraordinary and sudden expansion and contraction of its commercial credits during those three years, when it was almost certainly known that the bank would not be rechartered. We are informed, sir, by the report of the bank committee—for I shall adduce no authority not emanating from the bank or its friends—we are informed that, between May, 1830, and May, 1832, its loans "to individuals" were increased more than twenty-seven millions two hundred thousand dollars, on an aggregate of forty-three millions two hundred thousand dollars, being an increase of more than sixty per cent., principally in 1831, and all subsequent to the date when there was not the least prospect of the bank's ever being rechartered. We are also informed in the same document, that, between May, 1832, and November, 1833, the bank had reduced its commercial loans thirteen millions two hundred thousand dollars; and, by a subsequent report of the bank of the 2d December, it appears that the aggregate reduction, from May, 1832, to December, 1833, was about sixteen millions; and that the most of that reduction occurred since the question of the removal of the deposits had been agitated. Thus we have an aggregate fluctuation in the commercial credits, controlled by the Bank of the United States, of more than forty-three millions. But, sir, even this would have produced little or no effect upon the great mass of commercial credit always existing in this prosperous country.

While, however, the Bank of the United States has been, whether by design or not, engaged in thus rashly sporting with the interests of trade, it has been mainly instrumental in setting in motion near five hundred local banks, which have been also employed in expanding and contracting their commercial loans; making, probably, an aggregate fluctuation of these bank credits to trade, to the extent of two or three hundred millions of dollars. When we consider how this must have affected the private concerns between merchants and traders, we may imagine, though it is impossible to measure, the extent of the fluctuation in the whole mass of commercial credit in the Union. Still, sir, rich as our country is in resources, and buoyant in prosperity, it could have withstood all this, had the Bank of the United States, in curtailing its loans, acted towards our local institutions with that liberality which would have promoted its own interest, and cherished the prosperity of trade and industry. It is not, sir, the reduction of the loans of six-and-twenty banks scattered over this vast confederacy, at the rate of one, two, or three millions monthly, that can distress a nation. No, sir, the bank might do all this, and wind up its concerns with ease, provided it would effect it with any regard whatever for the country, and would not, by persisting in a vain struggle for a new charter, sacrifice its own and all other interests. But what has been its conduct? Ever since the three per cent. transaction in October, 1832, the public mind has been agitated with this question of the removal of the deposits, justly judging that the bank had forfeited the confidence of Government, and knowing that the term of its charter was approaching a close. From that moment the bank and its friends commenced a series of operations to disturb the public tranquillity. The most alarming consequences were predicted by its advocates, while the bank went silently to work to realize those predictions. It not only commenced a rapid curtailment of its loans to trade, but, what was far more disastrous to the country, it placed itself and its five-and-twenty branches in an attitude of hostility to some four or five hundred local banks, and thus made war indirectly upon every merchant, trader, manufacturer, and artisan in the country.

Yes, sir, the conduct of the bank and its friends was such, throughout the whole of the last year, as to excite alarm; and every State bank, and every merchant and trader, began to draw their concerns within their own resources. The mass of commercial credits was suddenly reduced to an enormous extent, varying, probably, from the amount existing in 1831, many hundred millions; foreign exchanges fell lower than they have been for fifteen years, and mercantile confidence was utterly destroyed. Had the bank confined its hostility to Government, and not made war, through the local banks, upon the trade and industry of the country, and had its friends abroad regarded the inter-

ests of the country more than the interests of the bank, no distress could have occurred; for there never was a period when there was less substantial cause for it. The Government would have been utterly regardless of the great interests of the country had it postponed removing the deposits for a single day. The distress was equally great, and from the same causes, before as since the removal; though, as Congress was not then in session, there was less pageantry in the movements of the bank and its friends; and the time had not arrived, as it has done since, when it was expedient to make a general and simultaneous effort to produce a panic in the commercial community, and to attempt to operate upon the fears of this House and of the country. The same distress, and from the same causes, would have existed if the deposits had not been removed; the same movements would have been made to intimidate the House into a vote against their removal. The present state of the country is not the work of a day or a month, and has not been produced by any measure adopted by Government. It has been owing altogether to the policy pursued by the bank for three years past. The conduct of the Bank of the United States in 1831, '32, and '33, though for a different purpose, has been precisely what it was in 1817, '18, and '19; and nothing but the sound condition of trade, the rise in cotton during the last year, and the state of our foreign exchanges, has saved the country from calamities similar to those which then desolated the West, and paralyzed the trade of the whole Union. Yes, sir, the president and directors of the Bank of the United States have done what would have induced this House, in 1819, to order a *scire facias*, had not the direction of the institution been transferred to other hands; and had it not been placed under the administration of those in whom Congress had confidence. Sir, the removal of the deposits could not have been postponed, with safety to the great interests of the country. The policy of the bank was well understood, and the state of the foreign exchanges prevented the possibility of a drain for specie from abroad. Every day's delay would have added to the distress of the country, and to the power of the institution to augment it. Those who administer its affairs might, in an instant, put an end to the public distress, and at the same time continue its curtailments, by announcing to the local institutions the policy they intend to pursue, and permitting them fearlessly to afford their usual facilities to trade. But, while the president and directors of the Bank of the United States remain with their arms folded; while they decline giving the State banks any intimation as to the course they may pursue in exacting the balances which must necessarily fall due, to an institution winding up its concerns, from other institutions which continue in operation; while they continue to pursue the policy they have acted upon for some months past, it will

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be impossible for the local banks to relieve the country. Was this the policy adopted by the old Bank of the United States? I was gratified, sir, to hear the gentleman from Pennsylvania defending that ancient institution. Whatever may have been its political conduct, it never can be censured for the manner in which it wound up its concerns. No; the policy pursued by the president and directors of that institution towards the local banks and the great interests of the country, affords a striking and an unfortunate contrast to the course now adopted by those who manage the affairs of the existing bank. In what manner the old Bank of the United States wound up its concerns, we are informed by a writer of that day. I quote from a scientific work—from an authority with which the gentleman from Pennsylvania is undoubtedly familiar:

"The public prosperity might have received a severe shock, and Government itself been exposed to difficulties and embarrassments much more serious than those under which it must now necessarily labor from the want of a national bank, if the same course of deliberate prudence which has marked the conduct of the late Bank of the United States throughout had not been also pursued in their mode of withdrawing from business. But they proceeded in their work so slowly, and acted towards individual debtors, and towards other banks on which they had claims, with so much liberal forbearance, that time was gained to supply the public with the circulating medium of new bank credits in lieu of those to be withdrawn—a conduct which was, moreover, dictated by the interests of the expiring institution itself, and singularly favored by the general stagnation of commerce at the period when it took place."

What a contrast does this policy present to that pursued by the present institution for three years past! "The same course of deliberate prudence."—"They proceeded in their work so slowly, and acted towards individual debtors, and towards other banks on which they had claims, with so much liberal forbearance."—"A conduct which was, moreover, dictated by the interests of the expiring institution itself." What, sir, would have been the actual condition of the country, had the president and directors of the present institution adopted, in 1831, a similar "course of deliberate prudence," instead of expanding its commercial loans, and placing itself in a worse condition for winding up its affairs in 1834, than it was at the beginning of 1831, by eleven millions of dollars? What would have been the present condition of our trade and industry, had the Bank of the United States "acted towards individual debtors, and towards other banks on which it had claims, with such liberal forbearance?" How different would have been our present condition, had the affairs of the bank been administered with a proper view to the interests of its stockholders, and a just regard to the country! I trust that its president and directors will be admonished by the prudent and just course of their predecessors, and hereafter proceed in

winding up the affairs of the bank without disturbing the public tranquillity, and sacrificing all the great interests of the country. I hope that such will be their future conduct, that, some twenty years after the institution shall have expired, some friend may be able to defend it with equal justice and ability. But if, on the other hand, the Bank of the United States should persist in this vain struggle for a new charter—if it should continue to set public opinion at defiance—to agitate trade—to sacrifice, all interests, and to disregard the ruin it may produce, by pursuing the policy of an exasperated and expiring institution—it will not only go down, but it will close its concerns amidst the universal execrations of the country.

WEDNESDAY, January 15.

Removal of the Deposits.

Mr. SAMUEL McDOWELL MOORE said: The question as to the propriety of the President's act, in removing his late Secretary from office, seems to me to have been improperly brought into this discussion, to which I humbly apprehend it does not belong; and it is not necessary that I should express any opinion upon it. But as I feel no disposition to avoid the expression of an opinion on a question which has been so much debated, I may be permitted to remark, that, although I am convinced that the position that the President may, at his pleasure, dismiss executive officers, without violating the constitution, is but too well established by long-settled practice, yet that I cannot approve of the act in question, if that act was induced solely from a determination on the part of the President to cause the public deposits to be removed. I do not approve of the dismissal on that ground, because I am of opinion that the deposits ought not to have been removed, and because I do not regard the duties of the Secretary, in relation to the deposits, as constituting any part of his duties as an executive officer. If the dismissal took place, however, in consequence of the offensive language used by the Secretary in his correspondence with the President, I am only surprised that the President permitted him to remain in office as long as he did; and, in that point of view, I imagine it will be a much more difficult task to account for his ever having been appointed, than to justify his dismissal.

In his letter to Congress, the Secretary of the Treasury recites the following clause from the act of 1816, as the authority under which he removed the public deposits:

"And be it further enacted, That the deposits of the money of the United States, in places in which the said bank and branches thereof may be established, shall be made in said bank or branches thereof, unless the Secretary of the Treasury shall at any time otherwise order and direct; in which case, the Secretary of the Treasury shall immediately lay before Congress, if in session, and, if not, immediately after the commencement of the next session, the reasons of such order or direction."

It will be perceived that this clause relates exclusively to deposits to be made, and gives no power to take money out of the Treasury of the United States, (which, for the time, was the vault of the United States Bank,) and place it elsewhere. It is certainly known that the Secretary has caused money to be taken out of the United States Bank, which was there anterior to his order of October last, and to be transferred to some of the State banks. The fact is admitted by the Treasurer, in his correspondence with the cashier of the bank at Philadelphia; and the power to do so is claimed in the report before me. From whence does the Secretary derive his authority for this? The clause I have read does not give it to him, inasmuch as its operation was evidently, from its language, intended to be prospective, and not retrospective. Is it from that clause of the constitution which says "no money shall be drawn from the treasury but in consequence of appropriations made by law?" This clause does not authorize, but forbids, the act of the Secretary; inasmuch as there had been no appropriation made by law of the money in the treasury to the purposes to which it was applied. The act of 1789 gives to the Secretary of the Treasury the power to "grant all warrants for money to be issued from the treasury in pursuance of appropriations to be made by law." The same act makes it the duty of the Treasurer (not of the Secretary of the Treasury) "to receive and keep the money" of the nation. There is no other act which gives the Secretary of the Treasury the power which he has exercised, of taking the money out of the United States Bank, and lending it to the State banks. The act, then, is not only unauthorized, but it is in violation of the constitution and laws of the land. The only plausible ground which has been resorted to, for the purpose of justifying the acts of the Secretary, is that which is furnished by the examples of Mr. Crawford and other Secretaries of the Treasury, and the acquiescence of the Government in times past; and I readily admit that if the fact of other Secretaries having exercised the power in question is to be considered as settling the question, there appears no further ground for dispute. Indeed, from the quotations made by the gentleman from Tennessee, (Mr. POLK,) from the correspondence of Mr. Crawford, I should suppose that it would be difficult to conceive of any exercise of power which might not be sanctioned upon the principles on which Mr. Crawford appears to have acted. And, sir, I freely admit, that if the gentleman from Tennessee had quoted from the correspondence of former Secretaries merely for the purpose of defending the present Secretary of the Treasury from the imputation of having assumed and exercised a power never claimed by any of his predecessors in office, he would have been eminently successful. There is one circumstance, however, which creates a

marked and most important distinction between the cases in which the power of removal was exercised by former Secretaries, and that in which it has been exerted by the present incumbent of the office. It is this: In all former cases, the removals were made with the consent of the Bank of the United States and the approbation of the Government; in this case, it was done against the consent of the bank. In transactions between individuals, consent of parties takes away error; and the same rule seems applicable to the parties concerned in the disposition of the deposits, viz.: to the bank and the Government. But even if the cases cited had been exactly parallel to the one we are discussing, the authority would by no means be sufficient to justify the act, though it may seem to palliate or excuse it. We have the authority of the President himself for refusing to consider precedent as conclusive in favor of the exercise of authority, furnished us in his famous veto against the renewal of the charter of the present Bank of the United States. So far from the exercise of the power in question being justified by the precedents quoted, they only serve as another example to show how universal the disposition is, in all men in office, to exercise powers not granted to them; and to prove how necessary it is that the representatives of the people should watch, with ceaseless vigilance, against dangerous assumptions of authority by the officers of Government.

What, sir, is to be the consequence, if we acquiesce in the doctrines contended for by the Secretary of the Treasury? What is there, if his views are correct, to prevent a young and ambitious President of the United States, who may wish to place a Crown upon his head, and to transmit it to his posterity, from trampling our liberties under his feet, and accomplishing his designs? May he not divert every dollar of the revenue from its legitimate object, and place it in his own pocket, or spend it in hiring foreign mercenaries to sustain him upon his throne, if the Executive has, in fact, the power of removing the deposits, and placing them where he pleases? How shall it be prevented? Shall I be told that money can only be drawn out of the treasury in pursuance of appropriations made by law, and upon the warrant of the Treasurer and the Secretary of the Treasury? It would be idle to tell me so, when it is admitted that the President could at any moment turn out those officers, and put in others more submissive to his will, should they presume to refuse to grant warrants to draw money out of the treasury for any purpose whatsoever, for which he might design to use it. Shall I be told that Congress would interfere to prevent it, when the power of Congress to interfere, or to pass any act for removing the deposits, even if it "should be satisfied that the public money was not safe in the care of the bank, or that the interest of the people

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of the United States imperiously demanded it," is denied by the Secretary of the Treasury in the passage from his report which I have just read?

Let it not be supposed, Mr. Speaker, that I intend to impute to the present Chief Magistrate of this nation any such designs against the liberties of his country. The case I have supposed cannot apply to him; nor do I believe he entertains any such views. If, sir, I thought he did, I hope I should not be so deficient in moral courage as not to say so. But, sir, the general confidence reposed by the people in the purity of the President's intentions makes it the more important that we should guard against the establishment of precedent which may hereafter be appealed to by men actuated by more dangerous motives.

I contend, in the next place, that Congress not only had not the right to transfer the power claimed for the Executive over the deposits, and that they did not do so, but that they never designed to do so. Why did Congress require the Secretary to report his reasons for changing the place of deposits to themselves, and not to the President? Was it merely for the purpose of ascertaining how handsome a letter he could write? or was it because they intended to hold him responsible to themselves, and to correct his acts if they were erroneous? Again, sir; why was any power given to the Secretary of the Treasury over the deposits? It was, sir, for the same reason that we are sent here, which is, not because the people cannot manage their own concerns, or are less competent to do so than we are, but because it is not convenient for them to do so. And, for similar reasons, were certain powers confided to the Secretary of the Treasury over the deposits. Congress is not always in session, and, when it is, it is impossible that it can act with that celerity which exigencies might require; it was therefore necessary to appoint an agent to act for it in such emergencies; who was never expected to exercise his power except in cases which would not admit of delay, and, even then, under a strict responsibility to Congress, and to Congress alone. The Secretary is, therefore, mistaken in supposing that his power over the deposits is a part of the executive duties of his office. Congress never intended any thing of the kind. He is, in truth, but the mere agent of Congress, or the trustee of Congress and the bank. And I understand, sir, that, among individuals, it is well understood that the parties to a contract may not only alter it or abolish it at pleasure, but they have an unlimited control over the acts of their trustee. We have, however, a novel case before us—one in which a trustee not only disregards the expressed wishes of the parties, and acts in avowed opposition to the wish of one of the parties, and refuses to wait to ascertain the wishes of the other; but actually denies the power to control him to be in either or both of the parties. He takes away the deposits

from the bank, and now denies our right to interfere in the matter.

But, Mr. Speaker, the most extraordinary position taken by the Secretary in his report is this: that Congress having made a contract with the bank, by which the deposits were to remain in the bank until the expiration of its charter, they cannot pass a law for removing the deposits, without breaking their pledge given to the bank, and a breach of faith; but that he, the agent of the Government, may remove the deposits at pleasure, without there being any breach of faith committed. Now, sir, I have always understood it to be a sound principle that what a man does by his agent he does by himself; and that any act which would amount to a fraud, if done by himself in person, is equally a fraud if done through the instrumentality of an agent. The same principle applies to Governments in their intercourse with each other, and in their transactions with individuals and corporations. Another very extraordinary position taken by the Secretary, nearly akin to the preceding one, is, that the Government has, by its compact, deprived itself of the power to remove the deposits from the United States Bank, without a violation of a pledge given, although every department of the Government should be unanimous in passing a law for that purpose, for the best possible reasons; and yet one of these departments may remove them for no reason at all, without any breach of a pledge given, or the least impropriety. In other words, the entire Government, consisting of the House of Representatives, the Senate, and the President, can in no case cause the deposits to be removed; but the President himself may do it at pleasure, without any injustice to the bank. It would, according to this mode of reasoning, be a fraud in the President to sanction a law for removing the deposits, but it would be perfectly fair for him to do it without law.

The pledge given to the bank is, that the deposits shall remain in its vaults until the charter expires, and it is obligatory on the whole Government. This pledge was undoubtedly required by the bank for its own benefit and greater security. But if the Secretary of the Treasury is right in his opinions, then this pledge does not increase, but greatly diminishes, the security of the bank. Without the pledge, (Congress having, as is admitted by the Secretary, a controlling power over the deposits,) when the deposits were once placed in the bank by order of Congress, they could only be removed by a law passed by the concurrence of both Houses, and approved by the President; but the pledge being demanded and given, the security of the bank is reduced to one-third of what it was, and the President alone may remove the deposits of his own accord. If any man had predicted that such a construction would have been put upon the charter at the time it was created, it would have been regarded

as absurd; and, if the bank had known that such was to be the interpretation of the pledge, it would have been rejected with disdain. The idea of a pledge binding upon the three branches of the Government collectively, but voidable at pleasure by one of them, is in itself too monstrous an absurdity to deserve the least respect. Does any man believe that the bank would ever have consented to give a bonus of \$1,500,000 to the United States, for the privilege of retaining the deposits in her vaults, if it had been understood that the continuance of that privilege was to depend upon the mere caprice or whim of the Secretary of the Treasury, or the Executive? Who would ever have subscribed to a bank which had agreed to give one million and a half of dollars for such a precarious advantage? No man in his senses would have done so, sir.

If the construction put upon the bank charter by the Secretary of the Treasury be just—if his power to remove the deposits was not dependent in any degree upon their being safe in the United States Bank—and he might at any time, as he asserts, remove the deposits if, in his opinion, the public convenience or interest would, in any degree, be promoted by it, without any breach of faith or moral impropriety; then it would appear to have been his duty to have removed the deposits the moment the bonus of a million and a half of dollars was paid up, and to have struck another bargain for a like sum with some of the State banks, and to have continued the same traffic as long as it proved profitable, inasmuch as it would undoubtedly have been convenient to have as much money as possible to apply to the payment of the public debt. Such conduct, to be sure, between man and man, would be regarded with abhorrence, as downright swindling; but, according to the casuistry of the Secretary of the Treasury, there would be nothing improper in such a course, if pursued by the Government towards the bank. I had always supposed that what the plain dictates of common honesty required of men, in their intercourse with each other, was not less obligatory on Governments and public bodies; and that what would be criminal in an individual, could not be justified in a nation.

THURSDAY, January 16.

The Pension Laws—Indian Wars.

The resolution offered by Mr. CHILTON, on the subject of extending the provisions of the pension laws to those who were engaged in the Indian wars on the frontier, from the peace of '83 to the treaty of Greenville in 1795; together with the amendment thereto proposed by Mr. BOULDIN, suggesting an inquiry as to the moral effects of the pension system, and the propriety of repealing the pension laws, coming up as the unfinished business—

Mr. ALLEN, of Virginia, said: The resolution of the gentleman from Kentucky proposes an

inquiry into two classes of cases. Under the law, as it now stands, the applicant, to entitle himself to the benefit of its provisions, must show a service at one or more periods, amounting in all to six months. Many of those who were most efficient in the Indian wars during the revolution, before the treaty of peace, never enlisted, nor were they called out to perform a tour of duty in the militia. The frontier of Virginia then extended from Pittsburg to the mouth of Green River. The State relied upon these western settlers to defend this extended frontier, and they were therefore never called out to perform duty in the East. They protected the settlements more in the interior, and thus enabled the State to direct her energies against the more powerful foe. Under these circumstances, though they may not be embraced in the letter, who can doubt that they come within the spirit of the pension laws, and are as clearly entitled, upon every principle, to the bounty of the Government, as any of those whose names are inscribed on the pension roll? The resolution also proposes to inquire whether all who were engaged in these wars, down to the treaty of 1795, are not, upon the principles of the pension laws, entitled to the benefit of these provisions. They allege the Indian war was brought upon them by the revolution; it was that part of the revolutionary war which occurred in the West; and, with them, it never terminated until the treaty of 1795. The signing of a treaty does not of itself terminate hostilities; they may continue; and, in the West, did continue, after the treaty of 1783. This treaty gave repose to the East. But did it silence the war-whoop, or extinguish the conflagration, or quench the torch of sacrifice in the West? It did not. The war continued, and with redoubled fury. The attention of the British Government and her agents was withdrawn from the East, but they stimulated the savages to renewed efforts. From motives of revenge, or to impede the settlement of the western country, they exerted themselves to inflame the Indians against us. The whole frontier was desolated, and, as late as 1794, outrages were committed in the district I have the honor to represent.

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Mr. BEARDSLEY said the removal of the deposits was a step indisputably lawful and valid. The Secretary of the Treasury was clearly authorized to do what he did. The expediency of the measure was another question, but one with which the bank had no concern. The measure was met by the bank in anger and in menace—not so much at the Government, which happily is above its reach, as at the State institutions and the prosperity of individuals. It aimed to crush the former, and to bring the latter in pliant submission, or in ruin, at its feet.

The attempt was made, and made at the time the bank deemed most propitious for its own objects. A new Congress was about to convene; it was hoped, by raising a loud cry of

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distress, to alarm the representatives of the people here, and shake their otherwise fixed determination. At such a time, and for such a purpose, all the fury of this mighty "legal entity" was poured out upon the devoted cities of the seaboard.

Where men congregate, they are easily agitated, and can be moved in masses. Money in large cities is the bread of life. Curtail the supply, and you excite the wildest and the deepest passions. A whole community heaving to and fro, and tossed about by its own convulsions, is incapable of reflection. It feels and fears: no one stops to inquire or reason. Give, then, to this perturbed mass some cause, little matter how trivial or absurd, for its own agitation and distress, and it is seized upon as the true and the only one. The bank managers knew all this: they had studied human nature, and they would now practise upon it. They coolly went to work to create alarm, to destroy confidence, to produce the greatest possible pecuniary distress; and as coolly to induce the belief that it was all produced by the change of the public deposits. Thus local banks and commercial associations were to be compelled, as some have been, to ask a restoration of the deposits, and, of consequence, a recharter of this institution. The compressive and coercive energies of the bank were applied, and, it must be admitted, with some effect. Not a few of its victims have been made to kiss the rod of the scourger.

The bank, sir, was badly advised. Instead of aggravating what it affected to regard as an evil, had it exerted its great power to alleviate it; had it been just, and generous, and magnanimous; had it even behaved with ordinary moderation and mercy, it would have planted itself deeply in the affections of many who now regard it with horror. It adopted an opposite course. It commenced a systematic and unparalleled persecution. State banks, bank debtors, men largely commercial—all felt, though few have fallen beneath its vengeance.

And now, sir, all having been felt which the bank could inflict, is it not matter of astonishment that no greater ruin should have followed from so mighty a cause? Let us be consoled. It proves the solid foundation of the local currency, and the firm basis of commercial operations. I trust, sir, we may hope to weather the storm in safety, merciless and ruinous as it was intended it should be. Let us be consoled. "The blood of the martyrs nourished the church!"—the distress, and suffering, and ruin, thus wantonly inflicted and designed by the bank, will make men see and feel the justice of its complete and speedy overthrow.

Sir, is it not idle, and worse than idle, to pretend that the transfer of some five or six millions from this bank, whose annual operations exceed three hundred and forty millions, to the State banks, has necessarily led to the distress which has been felt in the large commercial cities? It is incredible. No: it was the known

power and the hostile purpose of the bank; it would "rule or ruin." It would neither give aid itself, nor permit others to do it.

Those who control this bank are fully conscious of the power they possess. It was but recently that its president, in answer to a question propounded to him, announced, as his deliberate conviction, "that there were very few banks which might not have been destroyed by an exertion of its power."

What engine is this, sir, which can, at a blow, prostrate one and all of the State institutions—which holds the keys of life and death over the commerce of our country? It is the financial agent of this Government, reared to preserve and protect the liberties and welfare of the people: an agent, however, over which no department has any adequate control. It is an agent, sir, which has cast off its allegiance, and stands in an attitude, not only of vengeance towards the State institutions, but of defiance to this Government.

Sir, the bank has made war upon the people of these States. If it ever stood in an amicable relation, it has changed that position. If it once petitioned, it now threatens. If it ever sought to win its way by good deeds, it is now not less determined to have revenge, if it cannot have victory.

The issue is fairly made up. It will be our master, or it must perish. And let it perish. Sooner than extend its existence, or enlarge its means of mischief, let it perish, and in its fall carry down to ruin every bank in the Union. Sir, I would infinitely rather see this, than submit to the misrule of a purse-proud oligarchy, or a corrupt and sordid corporation.

Sir, I shall not go into a detail of its deeds for good or for evil. My objections are of a broader cast. Its power is too great. It is dangerous from its magnitude and its irresponsibility. It is too closely intertwined with all the business relations of the country. It brings too large a proportion of the people within its grasp. It is our sacred duty, as I believe, to keep it strictly within its charter limits, while living, and to rejoice at its approaching dissolution. Let it expire gradually; its death struggles will be less violent and less dangerous.

It knows its own power; it is corrupt and reckless in the use of that power. I will not attempt to count up the sum of its offences. It has sought to control and coerce freemen; it has aimed to poison and corrupt the press; to pollute the fountain and streams of information; to alarm, and madden, and render vicious the people at large; to enslave them in chains of their own forging.

No officer, sir, from the highest to the lowest, would have dared to use one farthing of the public treasure to stimulate, to control, or to buy up the press. Such an instance cannot be found; it does not exist. The most infamous would not dare thus to tamper with "the public purse." He would be hurled from office amidst execrations on every side. He would

feel, sir, what it is to brave the vengeance of an honest people.

But, sir, what has this bank done? Disguise it as we may, it comes to this at last: It has fed and pampered, even to a surfeit, the profligate and the dissolute, who were supposed to govern the springs which move and control public opinion; and, in part, with the money of the people themselves. But the sum is small; forty, fifty, or a hundred thousand dollars only, have been thus lavished. It is not the money, sir; it is the motive, the act—the vile and corrupt act—not the less contemptible or revolting for being less dangerous.

Sir, there can be but one safe course, as there is but one honest principle for exigencies like the present. I insist, sir, that no gentleman here would dare to show his face to his constituents, had he voted to use the money of the people as it has been used by this bank. One-fifth of its capital is owned by the United States. The directors are the agents of the owners of that capital. Sir, so far as the people are concerned, these directors are free from all responsibility; and they act accordingly. I deny, sir, that they had any right—any shadow of right—thus to expend our money. That power was not confided to them. Congress alone can authorize the use of the public funds; and it never has, and I trust never will, sanction any such use of them. Irresponsible to Congress and the people, the public money is sported with or lavished in defiance of the true owners. The directors use it at pleasure; they are not chosen by or responsible to us; we are without remedy. We have committed our treasure to hands above control, and without the power of recall. We may profit by the experience. Wisdom may be cheap, although purchased at a great price.

The public money is not safe in this bank. Deliberate and reiterated resolutions of the board of directors authorize an unlimited expenditure of its funds, by the president alone, and without control or accountability to any one, not even to the directors themselves. Under these resolutions, thousands of dollars, of which no account has been rendered, or can be obtained, have been disbursed. How, why, in what way, we are not told. Vouchers none—accounts none. It is a sealed book. We can only collect that the design was to bring the whole press of the country into the service of the bank. An irresponsible president alone can expose, in full relief, its now veiled mysteries.

But it was attacked, and resorted to the press in self-defence. May it not defend itself against attacks? In the first place, sir, it was not attacked; the President expressed his opinions of the bank, as it was his duty to do. This could not be called an attack upon it. In the second place, the bank has no right to enter the field of political controversy, in the guise of defence. It was created for certain purposes and ends; to loan and collect money, make ex-

changes, and other things of that nature. It was the duty of its directors to attend to these objects, and not, by a flagrant usurpation—a breach of trust—pervert its corporate power to political purposes. It was not created to raise or expend money in printing scurrilous pamphlets, to aid one party and depress another. That was not its design or object. Who authorized any such use of its fund by the directors? Not the United States when they became stockholders; not the individual stockholders. The charter contemplated no corporate existence for these, or similar purposes and objects.

As individuals, the right of the directors and stockholders to defend themselves, and to engage as they please in political conflicts, has never been called in question. It is the corporate interference which has been condemned; the acts of the individuals combined; the use, not of individual funds, but of the money of the stockholders and people.

But you would muzzle the press! The liberty of the press is in danger! If the bank may not print what it pleases, the constitutional freedom of the press is attacked! Let the bank, then, print what it pleases; but let it not use its corporate funds for that purpose. I object to its use of the public money in that way. The act is unauthorized! It is not according to the charter; it is a gross breach of trust; an expenditure against law, and in defiance of the law, as it is revolting to the moral sense of the people.

Sir, let us nerve ourselves to this conflict. Let us do our duty fearlessly. Let us meet this potent enemy, which dares to plant itself in hostile array against the liberties of the country. Its iron power must indeed be felt, and felt by all; but, I trust, not to the extent it has boastfully asserted. Its golden powers are more dangerous. Yet, sir, have we not every thing to cheer and encourage us onward—sacred duty, hatred of a grovelling and sordid tyranny, the approving and encouraging voice of an honest people? North Carolina, Indiana, Ohio, Pennsylvania, New Jersey, New York—their movements are significant, and speak in decisive language the condemnation of this institution.

Sir, let us do our duty fearless of consequences: "let justice be done, though the heavens should fall." Do our duty, and all will be well. But if it were otherwise; if it must come to the worse; if the credit and commerce of the country, if the existence of the local institutions, depend upon this bank; if its efforts cannot be counteracted with success by the Government and the people united; I, for one, say, perish credit; perish commerce; perish the State institutions; give us a broken, a deranged, and a worthless currency, rather than the ignoble and corrupting tyranny of an irresponsible corporation.

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FRIDAY, JANUARY 17.

The Pension Laws—Indian Wars.

The resolution offered by Mr. CHILTON on the subject of extending the pension system, so as to include those engaged in the Indian wars on the frontier, together with Mr. BOULDIN's amendment thereto, coming up again as the morning business,

Mr. PINCKNEY, of South Carolina, said: The people of the South understand this matter well; and the natural consequence has been, that to them the pension system is no less odious than the tariff itself. They know perfectly well that the system was designed not for the benefit of the soldiers, but as a means of taxing the South for the exclusive benefit of other portions of the Union. And as to the character and consequences of the system, what are they? On this part of the subject, I lay down one or two propositions, to which I defy contradiction.

It is a most burdensome system. It has no parallel on the face of the earth. There is not another nation in the world taxed to the extent that we are, to maintain a system of pensioning. Besides, sir, we have now arrived at a new era in our financial history. The public debt is paid, and we have now to adapt our expenditures to a new state of things. Shall we still go on in a course of reckless and increasing extravagance? Or shall we not profit by the past, and learn, though late, the lessons of economy. The present Chief Magistrate was supported by the South as the reform candidate. We were told by his advocates that his administration was to be distinguished by a system of retrenchment and economy; abuses were to be corrected; and the expenses of the treasury reduced to the legitimate wants of the Government.

Sir, how have these large promises been fulfilled? What retrenchment has been made? What abuses have been corrected? Are our expenditures less now than they were during the preceding administration? Or did they not swell immediately, and immensely, beyond all former bounds? I do not pretend to be in possession of accurate information on this subject; but, if I am not misinformed, the expenses of Government, which were then about twelve millions, have risen to between sixteen and seventeen millions; and, in fact, we are now told that one of the departments is insolvent, and obliged to go about, like a beggar, from bank to bank, to sustain the credit of the Government, and carry on the public business. Under circumstances like these, what is the duty of this House? To create new charges on the public purse, or to abolish such as will bear retrenchment? To increase, or to diminish the revenue? To multiply the taxes, or to reduce them to the legitimate wants of the Government? As long as the nation was in debt, the people bore their high taxes with patience; but now our debt is paid, they demand a system of economy and reform. They demand of us that

we shall impose no more taxes, and make no more appropriations, than shall be absolutely necessary. And I do say, that, if there be one item of expenditure which may with truth be denominated unnecessary, it is this system of pensions.

I speak, I know, the sentiments of the South, and, I believe, of the great body of the American people, when I say that if there be a tax of which they complain, or if there be a reduction of which they approve, it is this pension system. But this system is not only burdensome; it operates unequally, and therefore unjustly. Of the whole army of pensioners now dependent upon the bounty of this Government, how many are from the South? Not one in ten: no, sir, probably not one in twenty. But who contribute proportionally, most largely to the treasury? I assert, without fear of contradiction, that the greatest proportion of the whole receipts of the treasury is drawn from the southern States. What, then, is the operation of the system? What, but to draw out the substance of our wealth, and to give us little or nothing in return, while it bestows as largely upon those portions of the Union which contribute comparatively little to the public chest?

MONDAY, JANUARY 20.

Removal of the Deposits.

[Mr. Jones, of Georgia, delivered an elaborate speech, covering all the points of law and fact in the case; of which the following concluding part will furnish a view.]

But, sir, admitting that the Bank of the United States is entirely safe, and has never failed to pay or transfer any money when required—and it is but justice to her to say, I fully believe and freely admit it—and admitting, what is not true, and which I have endeavored to show is not true, that the bank has acted perfectly correct, and has never been guilty of any malversations, I am clearly of opinion that the public deposits ought to have been removed, for the purpose of putting into operation and perfecting some other system of finance to supply the place of the one which has been practised through the medium of the Bank of the United States.

The charter of the bank will expire in 1836, and she can no longer perform those services. The gentleman from Pennsylvania has told us that the State banks cannot discharge the functions of a fiscal agent; that they cannot distribute and transfer the revenue throughout the Union, as the same will be wanted by the United States. I do not agree with him; but if the matter be doubtful, it is time the experiment were made. There are many on this floor, and I am one of them, who cannot consent to vote for a charter of a Bank of the United States while the constitution remains unchanged. No motives of convenience or expediency can avail. It is

important that the experiment should be made. And if we find the State banks cannot supply the place of an efficient fiscal agent, an amendment of the constitution must be made, and the necessity of the thing may reconcile us to the measure. With a knowledge that the present charter will expire in two years; with a perfect confidence that the charter will not be renewed in that time; with a certainty on the part of some, and of doubt with others, as to the inefficiency of the State banks, is it not the duty of prudent counsellors to provide, by a wise foresight and timely action, for the difficulties which are before us? Will not a skilful pilot and prudent mariner regard the approaching tempest, and trim his sails to the coming storm? And shall those who are placed at the helm of state stand idle and unconcerned, and regardless of the future, and make no preparation for the difficulties which await us, and the dangers which threaten?

And where shall we find a fiscal agent which can supply the place, perform the services, and discharge the duties which have been heretofore done by the Bank of the United States? The answer to this question brings me to the amendment which I have submitted to the consideration of the House. Mr. Speaker, we have been told by the gentleman from Pennsylvania, (and I have no doubt there are others who believe so,) that the State banks will not be able efficiently to perform all the services required, and to render the necessary facilities to the Government and the community in the collection and distribution of the revenue. I believe those gentlemen are mistaken. The capital will still remain in the country, whether in a Bank of the United States or in the State banks; and the same accommodations can be extended to the commercial community by one bank as by the other. Bills of exchange have been the medium by which the United States Bank has changed her funds from one section of the Union to another, to meet the exigencies of the United States. This can be done by the State banks. It is now done every day, in every commercial city, by those banks, for the convenience of the community; and it will be only necessary to extend it commensurate with the wants of the Government. The same means of information which enabled the United States Bank to know where to contract and where to extend her business, whence to draw her funds, and where to transmit them, will be equally open to the directors of the State banks. All the banking and commercial talents do not belong to the Bank of the United States; and if they did, when that expires they will be transferred to the State institutions.

The gentleman from South Carolina, (Mr. McDuffie,) has depicted in glowing and animated language the dangers of the union of the moneyed interest of the country and the patronage of the Executive; and has told us, if he had the power to control it, the Bank of the United States should always be opposed to the

President of the United States. I entirely agree with him, and the very object of the amendment is to guard against the dangers of such a union. We need not be told of the control which the Executive would have over all the State banks, if he has the discretionary power of placing the public deposits in what banks he pleases, upon what terms he pleases, and as long as he pleases. We need not be told that such an unholy and "meretricious union" would be more deleterious than the baneful influence of the bohemian upas, more destructive than the desolating blast of the simoom. In these halls, where the voice of liberty is raised, and the vestal flame of freedom is continually burning, altars will be raised, and sweet incense burnt, to the spirit of money and the spirit of despotism.

Sir, has that gentleman never thought this meretricious union might be formed between the Bank of the United States and the President of the United States? Has he never supposed that, but for the fortunate difficulties between the present Executive and the bank, there might now be that very "meretricious union;" that the bank might again have been rechartered; and all the power, and the influence, and the patronage of the Executive and the bank united to destroy the rights of the States, break down the bulwarks of the constitution, and raise up one grand consolidated empire!

The State banks have separate and distinct interests, and can never be beyond the control of the State legislatures. The directors of those institutions belong to the community in which they live, have the same interests, the same feelings, and must be more or less under the influence of the friends and relations by whom they are surrounded; they must witness the calamity, and embarrassment, and distress, which selfish and interested measures may produce, and they cannot be insensible to public opinion. Not so the Bank of the United States. The directors can have no feelings, no interests, common with the people, except where the principal bank is situated; they have no sympathy for their sufferings; they do not hear their complaints nor see their distress; they are beyond the influence even of friends and of public opinion; and to all the complaints, in every place where a branch is situated, the single answer may be given, "We have received directions from the principal bank, and we are compelled to obey them." While it is potent for good, it is more potent for evil. There is a unity of action, with a weight of power that is irresistible. The branches, like so many powerful engines, are all propelled by one master wheel; one man controls and regulates the whole; he wills, and money is abundant—all is plenty, and peace, and prosperity. "A change comes over the spirit of his dream;" he wills, and the money is drawn into the vaults of the bank from all parts of the country; poverty, and distress, and ruin overspread the land. I will not extend the picture.

JANUARY, 1834.]

Removal of the Deposits.

[H. OF R.]

THURSDAY, January 23.

The Deposit Question.

Mr. HUNTINGTON said: The honorable member from Tennessee (Mr. POLK) stated, and more than once repeated, that, in regard to this subject, the issue was formed between the Government and the bank. I differ with him as to both the parties which he has named. If he means by the term "Government," that which is so called by the travelling agent of the Treasury—one branch of it only, the Executive, or simply the Treasury Department—he has rightly named one of the parties; but if he uses the term as freemen understand it, as including the Executive, Judicial, and Legislative Departments, then the Government is no party to what he calls the issue which has been closed. Congress has declared the bank to be a necessary and useful corporation. The Supreme Court has decided that it is a corporation rightfully created under the constitution. The House of Representatives, by a large majority at the last session, declared it to be a safe place of deposit for the public moneys; and the Executive only has been found in opposition to it as unconstitutional and inexpedient. The Government proper, therefore, has not made itself a party to the removal of the deposits. The honorable member is equally in an error when he affirms that the bank is a party. However great and unwearied the efforts have been to destroy its credit and usefulness, both at home and abroad; however unceremoniously the characters of the honorable and virtuous men who manage its affairs have been traduced and slandered; however wanton have been the attacks on the institution and its directors, the whole dwindles into insignificance compared with the results which have followed to the country from the hostility of those who should have been its protectors and friends. The issue is closed between the Treasury and the people, and it has been tendered by the former; and by this House and the Senate is this issue to be tried, and judgment rendered; and in its determination, the bank, as such, and in regard to its own rights, is comparatively a cipher—a matter of no moment. The question is, whether the Treasury shall govern, or the people? The observations which I propose to submit to the House will be comprised in answers to the following questions:

What was the condition of the country previous to the contemplated change in the place of deposit of the public moneys?

What is that condition now?

What is it to be if the deposits are not restored?

What causes have produced the present distressed condition of the country, and the alarming forebodings of calamities still greater to befall it?

What is the remedy for these evils?

Shall Congress apply it?

There is not one of these questions which is

not full of meaning, and worthy our most serious consideration.

What, then, was the condition of every portion of this great nation while the public moneys were in their legitimate place of custody, and the power of the Treasury had not been applied to disturb and remove them?

It was one of unparalleled quietness, ease, and prosperity. Every channel of industry was filled. Full employment was given to the laborer, who earned his daily bread by the sweat of his brow—to the mechanic, who worked in his shop, and furnished the necessities and comforts of life for himself and all in his employ—to the manufacturer, who rewarded the industry of thousands connected with and dependent upon the successful pursuit of his business—to the merchant, who was engaged in prosperous commercial enterprises—to the farmer and planter, who found a ready and profitable market for the products of their labor. Payments were made for the productions of agricultural, mechanical, and manufacturing labor through the domestic exchanges of the country, at a trifling expense; and in like manner were payments made for imported merchandise scattered over every portion of the Union. The Bank of the United States, sustaining its amicable and confidential relations with the Treasury, acted the part of a balance wheel, regulating all the movements of the whole machinery of currency and exchange, keeping it in order, preventing the over-issues of the State banks, and yet befriending them; distributing the public revenue in every direction to pay the debts of the Government; and, through its loans and exchanges, giving and continuing health and soundness to every part of the country, and creating and sustaining a currency more perfect than any which ever existed in the most finished periods of the commercial prosperity of Europe. Our country presented a scene which we might and did contemplate with delight, and which called forth our thanksgivings to the beneficent Author of all Good for such distinguished mercies. There was not a dark shade in the picture of our country's prosperity; all—all—was bright, delightful in fruition, cheering in prospect.

What is now the condition of the country?

Changed, greatly changed; almost wholly reversed. Every channel of industry is now partially choked. A paralysis has settled upon our principal commercial cities, and is rapidly extending itself in every direction. Business is suspended; no new contracts are made; the arm of labor has become nerveless; the currency is disordered, and money not to be obtained; a universal panic exists; fear and alarm are apparent in the countenances of all; frequent bankruptcies occur; commercial credit is impaired; and the whole country is in a state of agitation, excitement, alarm, and fearful apprehension. Is not this statement true? Does not every day's post bring us confirmation of it?

This, however, is but the commencement of evils still greater to follow, unless an immediate remedy be applied by the action of Congress. And this leads to the inquiry what is the prospect before us? What is to be the condition of the country, if there be not a reaction, if business do not revive, confidence be not restored, the usual course of industry and enterprise be not pursued, the currency be not restored to its former sound and healthful state, and active employment be given to the labor of our citizens, with a reasonable prospect of a fair and certain remuneration?

That condition, it is to be feared, will be one of general bankruptcy, and, perhaps, a suspension of specie payments by most of the local banks; the present state of things, gloomy and fearful as it is, cannot long continue; the pressure will be more severely felt; the causes which have produced it will not cease to operate, but will accumulate strength, and produce still more deleterious effects; the cord is fast drawing to its ultimate power of tension; in a few months it will part. And what will be the result? Will it not be one which will jeopard the capital of the State banks, or compel them to refuse the redemption of their notes in coin? Can the local banks redeem their circulation and pay their deposits, without calling upon their debtors to make frequent and large payments? They have not the power to coin money, nor can they raise it on their credit. And can these debtors pay without effecting loans elsewhere, or obtaining money by the sale of their crops or their manufactures? And are these the resources which are at hand? The banks, instead of loaning, are curtailing their accommodations; private capitalists will not lend; sales of the products of labor cannot be made. In what manner, then, is provision to be made for the payment of bank loans? And if none can be made, the local banks must resort to other means than collections from their debtors to provide for the redemption of their own debts—and they will look in vain for any such means. It is also not to be forgotten that the whole system of banking operations in this country has its foundation in public confidence and credit. It is well known that the banks cannot redeem all their issues in coin, if demanded at once; but the community feel a security in the integrity, and intelligence, and prudence of those who have the management of these institutions, and a certainty that the notes will subserve all the purposes to which they wish to apply them, and thus be equivalent to coin. While these feelings of security and certainty continue—while all the banks are disposed to be liberal and friendly to each other—while the business of the country is carried on with its accustomed industry and prosperity, and the revenues of the Government are disbursed equally for the benefit of all, and the domestic exchanges continued with their usual frequency and rapidity, and without loss, and the currency is preserved pure—all

will be well, as it was before the Treasury order relating to the public deposits was issued. But when the time arrives that money cannot be obtained in any form to meet outstanding engagements; when such a state of alarm shall exist as that the vaults of the local banks are to be opened to redeem their notes; when speculators in bank notes shall commence the purchase of them at a large discount, to demand their payment in specie; when this period arrives, then will most of the State banks be compelled to close the doors of their vaults, and the scenes of the years 1814 and 1815 again be witnessed. And though I believe the Bank of the United States—that monster and tyrant, as it has been called, which was to crouch at the feet of the Treasury an humble suppliant for favor—will ride out the storm without the loss of a spar, or a sail, or a yard, it is greatly to be apprehended that the broken fragments of most of the State banks, which will be seen everywhere floating, will evince what desolation and ruin have befallen them.

FRIDAY, JANUARY 31.

Purchase of Books for Members.

Mr. SPEIGHT asked the unanimous consent of the House to offer a joint resolution. Leave being given, he offered a resolution for furnishing to the new members of Congress certain books of reference which have been furnished to the old members.

Mr. WHITTLESSEY objected to the form of the resolution; and, after some conversation, it was, on the motion of Mr. POLK, verbally modified, with the consent of the mover, so as to read as follows:

Resolved by the Senate and House of Representatives, That the members of the present Congress, who have not heretofore received them, be supplied with the same books that have been ordered to be furnished to the members of the 22d Congress; the cost thereof to be paid out of any money in the treasury not otherwise appropriated.

Mr. WAYNE wished, before voting, to know what the books were which were referred to, and whether some might not now be out of print, so that the resolution might, in effect, be authorizing a reprint of them.

Mr. SPEIGHT explained, and stated that his object in offering the resolution was to furnish such members as had not been supplied with them with Gales & Seaton's Register of Debates, and the Documentary History of Congress.

The resolution was ordered to be engrossed for a third reading.

The SPEAKER stated to the House that an oversight had been committed in passing to a third reading the resolution offered by Mr. SPEIGHT. That resolution involved an appropriation of money, and must, therefore, first be considered in Committee of the whole House.

On motion of Mr. SPEIGHT, the House went into Committee of the Whole on the state of the

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Union, Mr. CONNOR in the chair, and took up the resolution.

Mr. SPEIGHT amended his resolution by adding that the whole of the Register of Debates, from the first to the ninth volume, inclusive, and the whole of the Documentary History published, should be purchased for those members of Congress who had not yet received copies of those works.

Mr. FOSTER inquired of the mover what the books were which would be covered by the resolution, and what would be the cost of them?

Mr. SPEIGHT replied, that the gentleman had the same information as he had; what the cost would be, he could not say. He had stated what the works were which he had in view.

Mr. FOSTER suggested that the resolution ought to specify the books. He observed that the resolution, as amended, went to provide, not only for new members, but for the old ones also. The House was improving. Instead of resisting the practice of furnishing themselves with books, they were extending it. He wanted to have an estimate of the expense of carrying the resolution into effect, that the people might know how much they were voting to themselves over and above their pay.

Mr. SPEIGHT said the gentleman seemed wholly to have misunderstood the resolution, and his purpose in moving it. It was merely to put the new members on the same footing with the old, in relation to two works very important to a right discharge of their public duty on this floor.

Mr. FOSTER deprecated the resolution with warmth, as going to produce a scene of perfect confusion: the resolution went back for years, and those who had been members of the House years ago would be sending to the Clerk for volumes to complete their sets, &c. He would in the House move to refer the resolution to the Library Committee, with direction to report the expense of carrying it into effect.

The question was taken on Mr. SPEIGHT's amendment, and it was carried.

The committee rose, and reported the resolution as amended.

THURSDAY, February 6.

The Deposit Question.

The House next proceeded to the consideration of the deposit question.

Mr. PERRY said: Mr. Speaker, it is strange, indeed, that the man who has given his life to the service of his country, who has toiled and perilled so much in defence of its institutions, should now be represented as dangerous to its liberties and regardless of its laws. These sentiments have been urged and reiterated against the President from the commencement of this debate. I will endeavor, Mr. Speaker, in a plain, brief manner, to answer some of

these charges, before I proceed to the consideration of the subject before the House.

I agree with the gentleman from South Carolina, (Mr. McDUFFIE,) that it is dangerous to unite money and political power. But, sir, we must trust somebody; and I had rather intrust the management of the treasury to those whom the American people have selected as the guardians of their liberty, than leave it exposed to those who have become furious by the rebuke they have received at the hands of the people. Sir, we have exhibited before the nation and the world an extraordinary spectacle—a scramble for the control of the public money. An attempt is made to wrest it from the constituted authorities by gentlemen whom the people pronounce undeserving of their confidence. Yes, sir, they demand that the public treasure, which is the "soul of the body politic," shall be yielded up at the overbearing dictation of this strange alliance, formed by a union of party leaders from all points of the political compass. Well, sir, if power is to change hands, let us see if the country will be benefited by it. Who are they who demand the change? Are they not the same restless spirits who so lately brought their country to the brink, "where is but one step down, and all was lost?" Let us pause and survey the scene! We hear of tyrants, and revolutions, and resistance. Who is producing this uproar, this clamor for the public treasure, and grasping at that power, I had almost said, in a revolutionary tone, which they were not able to reach in the spirit of our institutions—which the stern voice of a republican people denied them? What do we behold? Why, those who but yesterday glared upon each other with a tiger's look, and bristles up, are now folded in each other's patriotic arms, and lauding each other as public benefactors. They benefactors of the country! "It is an insult to the nation to say so." I borrow the phrase from the gentleman from South Carolina, (Mr. McDUFFIE.) "The Federal Union—it must be preserved:" that was the sentiment uttered by a patriot, and responded to by freemen, which saved the country. Now, sir, I ask for the true cause of all we see and hear? There is no man so weak or credulous as to believe, for a moment, that it is to be found in this petty question of giving the bank the use of money, which its friends boast it can well do without; or in the pecuniary interest of a few rich men in Europe and America, who own and control the bank. No, sir; this is the pretext seized upon to scatter firebrands through society. A deep game of ambition is playing, not unlike those to which honorable gentlemen have referred us in the history of other nations. We can occasionally get a glimpse of the cloud boiling over above the horizon, and hear the thunder in the distance. Gentlemen are throwing high die for power; and, with a boldness characteristic of the high order of their intellect, are willing to stake all, and stand the

hazard of the cast. "To rule or ruin" is the bold design. Sir, it would be patriotic, and command our highest admiration, to see a statesman love his country better than himself; notwithstanding that country had withdrawn its confidence, and had driven him from a high station. A Cato could love his country even in banishment; and that country, he said, was not "Utica or Adymetum, but Rome." But, sir, I appeal to all America whether it was love or hate—deadly hate; whether it was patriotism or ambition, which formed this unnatural union? In what else do they agree but war, unsparing war, upon the President? Is this patriotism? Do they hate each other less, or Andrew Jackson more? Say, sir, that to-morrow's sun rose upon this administration swept from the earth—that every member of it should meet a Brutus while he sleeps—that all power should devolve upon these leaders, who assume to be the guardians of constitutional liberty: what then? There is not room in the chair of state for more than one man. "England could not brook the double sway of Hal and Hotspur." Would this new love some gentlemen profess for courts and federal jury trials continue? Would the father of the American system adhere to his recent declaration in favor of a strict construction of the constitution? Would you expect from such materials a harmonious, patriotic action in the Government? No, sir, you will as soon see the Stony mountains raising their snow-capped heads amidst the pines of Carolina, as you will see the father of the American system, and the fiery prince of nullification, moving quietly along, upon principle, in the great questions which have disturbed the peace of the American family. Remove the cause of this union, and the union itself is broken up in an instant. No more tears will be shed for the bank, which, by the bye, have fallen as fast on the other side of the question in days which have passed; for some gentlemen seemed to have a fountain at command. But let success crown the coming struggle, and the measures and principles of this administration be battered down; would not the unnatural folds in which this knot of politicians is linked together be unrolled? Would not those hyena glances, which are now drawn to a focus and bent on the white house, flash and dart at one another? I question, sir, if jealousy and rivalry would not take the place of patriotism; and if ambition should predominate, then would come a struggle which would test the energies of our frame of government—the firmness, the moderation, the virtue, and the patriotism of the people. If I could be permitted to state the case, sir, we would see on each side men of transcendent talents, of disappointed hopes, chafed ambition, backed by orators in boldness, chivalry, and "the power of speech to stir men's blood," such as the revolution of France produced—each controlling presses which have it in their power spread delusion over the face of the land, to

"thick as autumnal leaves in Vallambrosa," carried on the four winds. More, sir. On the one side, would be arrayed this bank, with all its treasures, with all the attendant sources of corruption which would be opened; upon the other side, there would be arrayed an army of twenty-five thousand State troops, to assert the claim of their favorite, under the banner of State rights.

Mr. Speaker, gentlemen have ransacked historians and poets for tyrants' names, and cases of oppression, in which they vainly seek to find some resemblance to the President and his measures. But I am struck with this remarkable feature in all the examples which the mirror of history holds up to view. It is, that liberty has been lost by ambition grasping at that power which it could not constitutionally attain. The first step has always been to impede the operations of regular government, excite distrust against the constituted authorities, denounce those in power as usurpers and tyrants, lay all the "ills that flesh is heir to" on them, mourn over the lost liberties of the people, shed over their distresses crocodile tears, produce insubordination to the laws, and make a push, in the misrule and anarchy thus brought about, for supreme power. *Æneas* is described as having ascended the throne of Carthage wrapped in a cloud. Gentlemen have carried us back to the days when Rome was free, and told us how she lost her liberty. Roman liberty was buried in a battle field—in a battle field upon which two men were the champions, who had been friends. The fatal field of Pharsalia was the tomb of Roman freedom. There, sir, it received its deathblow: that was the catastrophe of a coalition formed by Cæsar, Pompey, and Crassus. This, sir, is a memorable event in history; (I am under obligations to the gentleman who introduced it as a fit parallel of the times;) it carries with it a sublime and useful moral, and, as such, may be well applied to the present crisis. How did the first and mightiest Cæsar make himself absolute, and subvert forever the liberties of his country? Why, if my slight reading has not greatly misled me, it was by uniting with his own lofty genius and restless spirit the gold of Crassus and the popular influence of Pompey. With these he broke down Cato's influence in the Senate, and amongst the people. If we have Cæsars and Pompeys now, we must have a Cato too. The gentleman from South Carolina says that he (General J.) has thrown himself in the breach. Yes, sir, he has; and there he stands, "a pillar of state," which neither recedes from the waves, nor is shaken in the tempest; and as long as he stands, certain hopes lie crushed. As long as the nation has confidence in his unsullied integrity and pure patriotism, the dream of power with some gentlemen is postponed; but with the feelings of those who are endeavoring to overcome some "dire calamity, they gain reinforcement from hope, or take resolution from despair." The

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desperate attempt is making to prostrate a patriot, who finds in the confidence of his countrymen an impenetrable shield. Why is this pyramid of the nation's strength to be demolished? Because it stands in the breach. Where else would you expect to find him? Has he not always been found there, in the hour of peril? The onset is sounded, and all the elements and instruments of party warfare rush to the assault. A simultaneous movement is made in both ends of this capitol, and all the pensioned presses of the country pour forth their calumny. We are yet to see the result.

The main object of the gifted gentleman from South Carolina (Mr. McDUFFIE) was not to inquire into facts, nor to settle great principles; but the scope of that gentleman's impassioned appeal was to hold up the Chief Magistrate as a tyrant, whom it would be patriotism to resist; to exhibit the officers of Government, from the highest to the lowest, as an army of mercenaries in the President's hands, to be used for any of the vilest purposes; and a majority, or a supposed majority of this House, was taunted by him as a drilled majority, ready to follow a reckless usurper, who had violated the law and constitution, and was trampling in the dust the rights of widows and orphans. I do not pretend to give words or sentences; but this was the tone and substance of these broad denunciations, which swept from department to department of this Government. The times are strangely out of joint, indeed, when we are taunted with exercising majority power, and the President is scoffed at by that gentleman for not tolerating freedom of opinion. Now, "drill" is the first word a military man learns. Drilled majority! and this we are to be taunted with by that gentleman! Why, it seems that some gentlemen have an instinctive abhorrence of trusting majority power to any one but themselves. When I see before my face the fruits of its exercise elsewhere, I am astonished that he should be the man to make "mountains of a mole hill." Where does majority power let fall the heaviest hand? Why, sir, in a section where alone, we are told, pure and unrestrained freedom of opinion is to be found. There, sir, an oppressed minority, a handful of men, whose integrity of soul cannot be subdug by this power, are disfranchised—stripped of their military titles and their civic wreaths, which are gathered up and placed on other brows—for what? for "opinion's sake;" yes, sir, men whose fathers toiled through the bloody fields and arduous councils of the Revolution, and who perpetuate in their bosoms the same lofty love of liberty and scorn of despotism, are deprived of office and all honorable distinction; taxed to support an army over their own heads; denied the right of voting for an officer who can have them shot for refusing to fight against their conscience and their country; and, worse than all, they are harassed by test oaths. Why all

this? Because they would not agree "mid de kort;" because they could not agree "mid de kort." How could they take the test oath, without "staining their names in time, and souls in eternity?" And, yet, that gentleman charges the President with stretching or trimming others on the bed of Procrustes. It was said in a speech I heard the other day, (Mr. Calhoun's, in the Senate,) that there is "nothing more dignified than reproof from the lips of innocence, or punishment from the hands of justice. But change the picture—let the guilty reprove, and the criminal punish; and what more odious, more hateful, can be presented to the imagination?" Now it does seem to me that some gentlemen do not stand in a situation to indulge in such reproofs and punishments; they are under too great and recent obligations to majority influence to do so. And, sir, how has it been with the bank? At one sweep, on one discount day of its wrath, it reduced the families of fifty watchmen in Philadelphia to live on charity; and yet, the gentleman from South Carolina tells us that "no man can breathe the air that surrounds the palace of the President, who does not think precisely as the President thinks; and that every man who did not vote for the President has been put out of office, and the most notorious open-mouthed partisans put in their places: and that is a truth known to the whole world." Now, sir, so far from this being a truth known to the whole world, the contrary is the fact, known to everybody in this part of the world, and especially in this House, except that gentleman. I am bound to believe he thinks what he says; but it is as notorious as that the capitol stands on this hill, that a majority of those in this city, who live upon the public treasury, are now, and have ever been, the political opponents of the President.

But I should like to know one thing: under this mild sway of majority power, as exercised in Philadelphia and elsewhere, into whose hands is the country to fall if gentlemen succeed—and especially we anti-bank, anti-tariff, anti-internal improvement, anti-nullification people? The republic, I trust, is not to be divided or parcelled out among the parties. That is surely an idea too horrible to be thought off. Into whose hands, then, are we to fall, where we can enjoy perfect freedom of opinion. Who will have the magnanimity to say "yours be the advantage all, mine the revenge?"

Mr. Speaker, the gentleman's mode of treating this plain proposition, submitted by this resolution, strikes me as a little unusual. He informed us that to a correct understanding of the question, as he presented it, no facts were necessary to be collected, no books or witnesses to be examined; but a great principle was to be settled. Well, sir, to settle this principle, the gentleman crowds his imagination with horrible images, and refers to Hume and

Shakspeare as his authorities. His heated fancy appears to see nothing but tyrants rise and fall, kings, and blocks, and decapitations. Thus prepared, he sets about to find a fit parallel to Andrew Jackson—not to find a case like the deposits; and what selection, in the wide range of the gentleman's reading, does he make? Richard is the parallel; yes, sir, Richard III.; and he alluded to the most bloody of all that tyrant's acts—the murder of his brother's children, whilst the sweet innocent babes lay asleep folded in each other's arms. This, sir, is given by the gentleman as an illustration of the conduct of Andrew Jackson; this is the manner in which a great statesman argues a great constitutional question. Am I not at liberty to ask if such an imagination must not be horribly distempered? I will leave civilized man, and appeal to the barbarians of the woods for Andrew Jackson's defence against such charges. They have witnessed the tear of sympathy, the paternal regard of that kind and benevolent man, whom this picture of cruelty was intended to represent; they bear witness that his humanity is only equalled by his courage; they will say that he fed, and clothed, and educated, with the tenderness of a father, their children, when the fate of war cast them upon his humanity. The gentleman says, that for such a deed as the President has done the subjects of a king would have chopped off his head; that it is a dark and alarming usurpation. Well, sir, let us examine the fact, and see whether at the time this act of removing the deposits from one place to another was done, and which had been done without complaint before, by other officers of the Government, any just parallel could be seen between Andrew Jackson and Richard, or Cæsar. Richard made his deep and startling resolve, because he beheld a greater than himself—because “he had no delight to pass away the time,” “no one to back his suit, but the plain devil and dissembling looks,” he intended to be first, or not to be at all. Now, it does appear to me, that if there were any about that time, or before, or since, who had no delight to pass away the time, who were tortured by blasted prospects, and wounded pride, it was not Andrew Jackson. This act could not confer on him more fame or power. The whole subject is in the hands of Congress. He had no further ambition to gratify. What more had he to ask from his friends, his country, or the world? Nothing, sir—nothing. He is old: he is the only scion of his stock. The Revolution swept away all but him. “His life is in the yellow leaf”—he is worn by toil and time—he soon must go!—must take his place in the vault beside her who was the companion of his joys and his sorrows. Nature made him great, not vain; but if he had been ambitious of distinction, as far as this world's honors can reward a patriot, he had been rewarded. They talk to us of Cæsar, and of Rome. When Cæsar won his battles, he crossed the Rubicon, and marched at the head

of his Gallic legions to a throne. When Andrew Jackson had won for himself imperishable renown, and completed the work of glory for his country, he disbanded his soldiers and retired to his farm. Cæsar said, “Talk not of law to men who wear swords;” he intimidated Metellus, and took the treasure. Andrew Jackson took his stand at the bar for trial, sentence, and punishment, in the midst of his victorious soldiers, and in sight of that battle field which will give immortality to the bards of future times who shall sing of the achievement. No talk of swords: he filed his plea, and urged that what had been done was lawful and necessary to save the city; his defence was disallowed, and he submitted without a murmur. Was that like Cæsar? The sentence next—but a wave of discontent rolled over the multitude. The soldiers were indignant to see their general, and the citizens their benefactor, punished, for what they considered a violation of no law, human or divine. The judge faltered; and this tyrant, who sets himself above the laws, raised his tall form above the rest, and waved his hand to the soldiery and populace, and with a calm voice and a dignified mien said to the judge, “Proceed! the same arm which defended the city will defend you in the discharge of your duty.” Was this like Cæsar? Torrents of calumny may sweep deep and fierce as the current of that river on whose banks these sentiments were uttered; but they cannot wash away these facts, nor make a Cæsar of that man. No, sir, he has never set himself above the laws of his country; and more, he has taught other gentlemen that no such thing can be done while he lives and holds the reins of government.

I have said, at the time the deposits were removed, Andrew Jackson had no temptation to usurp power, no motive to ambition. Had he? He was taken from his farm by the call of his fellow-citizens; placed by the spontaneous suffrages of a free people in the most exalted station on the earth; and, unlike Cæsar when he marched to Rome, he spread no dismay, dispersed no Senate; but the plain old man was hailed everywhere as a friend to his country. When he had served his first term as Chief Magistrate, he offered to surrender up the “gorgeous palace” for his Hermitage; but the nation's voice again was heard; his country said, if he could do without her, she could not do without him. Yes, sir, he had trod the paths of glory which Washington had trod before him. The historian had but to complete his office, and his name was immortal; the sculptor to perform his task, and he stood beside the father of his country, with that finger which penned the Declaration of Independence pointing him out as the noblest Roman of his day. And, sir, this is the man, under these circumstances, against whom all these shafts are hurled! Yes, sir, even the kitchen knife of Kentucky, which has been cast aside for years, is hunted up and thrown into

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this House, full of rust and gaps, to be sawed across the bosom of a patriot. I do not complain that he is found on the side of this moneyed corporation; it was to be expected. Every man in this country has a right to worship according to the dictates of his own bosom. These attacks on Andrew Jackson will not outlive the present age. They will perish with those who make them; and those, sir, who fill your place and mine—future generations—when they walk beneath these arches, and amongst these columns, will gaze on his manly features speaking in the marble, when his revilers will have mingled with the commonest earth.

Mr. WISE said: Mr. Speaker, I am, "*intus et in cute*," a Virginian. Whenever I see the "white plume" of the Old Dominion nodding in the "thick array of the thronged battle," I, for one, will always rally around it. I am sorry, sir, that I do not see my honorable colleague, (Mr. ARCHER,) who raised the rallying word, in his seat. I intended to congratulate him, Mr. Speaker, upon at last passing beyond the blue flame circle of the magician. Sir, I never was under the spell of the enchant-er, and I intended to bring to his recollection what he must have forgotten—politicians bewitched never remember to-day what happened to them yesterday—the scenes which occurred not many years ago in a certain convention, in a certain city not one hundred miles from this place. I am sure that two other colleagues, one of whom I have in my eye, (Mr. MASON,) know what I allude to. At a meeting of the delegation, to which my honorable colleague and myself belonged, in the Athenaeum of that city, a resolution was introduced to "concur in" and "approve of" the nomination of a certain magician to a certain high office in the Government. I then and there, Mr. Speaker, was rallying around a man of Virginia, and supported an amendment to the resolution, striking out the words "approve of," and for the first time in my life made a speech to a body of politicians against all magicians and New York tacticians. Sir, I was but a mere novice, as I am now, in political matters; but my honorable colleague (Mr. ARCHER) was there, who had more experience, and he resisted the amendment to strike out the words "approve of," and scouted the idea of magical influences and New York management as the mere imaginings of one not initiated. I thought, though, that I foresaw then what I know I see now; and I am truly happy that my honorable colleague has awakened from his trance—that the charm is broken, and he is once more free. But, Mr. Speaker, I cannot say that he has "burst the burning wythes" as with "the vigorous limbs of the yet unshorn Nazarene." His limbs seem rather cramped since he was spell-bound. But to the subject. Sir, I have not yet realized the solemn fact that "we are in the midst of a revolution;" but there are some serious truths of which I am

admonished. Lightly to tamper with the public faith, the public credit, and the currency of any country, is to destroy public confidence in the Government, and to excite fearful and alarming internal convulsions, if not a revolutionary struggle. And knowingly and wilfully, or tamely and supinely, or ignorantly and corruptly, to permit any colossal power whatever, especially that of a moneyed corporation, to outgrow the State itself, bestride the majesty of the people, and overawe their representatives, is basely and ignominiously at once to surrender the liberties of the country beyond the hope of a revolution! On this question, then, we are truly between Scylla and Charybdis.

For my part, I am now ready to give my decision on all the issues joined between the Secretary and the bank.

The legislative branch of this Government has, by special act, chartered this corporation; whether constitutionally, or not, is not now the question. It has been recognized by the General Government in all its forms, by the States and the State tribunals; and it has been tolerated by the people. If it does not exist "*de jure*," it does "*de facto*." Rights have become vested by its charter, and the bank has for a long time enjoyed its corporate privileges, and realized its profits under a contract made by law. Its credit is pledged to the performance of that contract, and I here hold myself bound to maintain the plighted faith of the Government. I am for the restoration of the deposits; but with the first position assumed by the bank and its friends here, I differ. It is contended that the question now before us is "*coram non judice*;" that the case is not properly brought up; that it has been sent here by the President, and not by the Secretary of the Treasury, according to law. Sir, as gentlemen will perversely discuss this matter as before a judicial tribunal, look to the record. The first paper is the Message of the President of the United States, announcing to Congress the fact that the Secretary of the Treasury removed the deposits, and that he (the Secretary) would lay before Congress the reasons for so doing. The next paper is the letter of the Secretary himself, who states the same fact, and who certifies the record under his own hand, the identity and genuineness of which is not denied. Now, sir, from what paper or document in this House, belonging to this body, upon which we can legitimately act—from what authentic record do we know, in our official capacity, that the President, and not the Secretary, has removed the deposits, and that the reasons for the removal are the reasons of the President, and not of the Secretary? From rumor, from gossip, from newspapers! But we are told that the President himself has promulgated his will in a cabinet paper, showing the measure to have been his own, and that he "assumed the responsibility." Sir, are we to act as statesman here, or as mere

politicians? Are we to be governed as legislators in this hall, or as demagogues of a bar-room? I repeat, sir, how does Congress get at that paper? By travelling out of the record. And gentlemen have totally forgotten their first position upon the reference of this subject, that we are acting derivatively, and not originally—upon a review of proceedings—upon bill and answer alone; and that we should not look so far out of the record as to ascertain any new facts pertaining to the merits even of the case. Sir, that paper is totally *deshors* the record upon which we are to act; and we have no more to do with it, in the decision of this question, than with the President's private accounts, until he makes it an official communication to Congress. But, away with this contracted lawyer-like view of the subject!

Sir, we are legislators—the popular branch of the Legislature—the peculiar guardians of the liberties of the people; not tied down by the farce and mockery of forensic forms or legal technicalities. We are lawgivers; and God forbid that the representatives of this people should not in any way—through spies even—ferret out misrule, corruption, abuse of power, tyranny, and oppression, whenever there is the least reason to suspect that they lurk in secret places, or exist even in forms. When their fetid breath taints the atmosphere of this country, our senses should be keen to snuff it in the breeze, as well as hear of it in whispers. Ay, in these days, believe the winds sooner than the press, which has ceased to be a faithful sentinel. Believe any source of intelligence, which by possibility even speaks truly of oppression or usurpation. Let the cabinet paper, then, be read, if gentlemen please, at the Clerk's table. Will that satisfy them? It ought not. In order to carry out their unsparing, uncompromising mode of opposition, they ought, and should, upon their principle assumed, go further. Sir, it has been said in the newspapers, and boldly said but the other day in this building, that "there is a power behind the throne greater than the throne itself;" that there is a kitchen—Kinderhook cabinet—which caused the President, their "pliant tool," who caused the Secretary, his "pliant tool," to remove the deposits. Why, then, do gentlemen not go down to the kitchen, among the scullions and scavengers, to the first cause of the removal? Good God! sir, is not this disgraceful! Did ever a Congress before so compromise its dignity of thought and action? He may feel honored by a seat here who is a friend of this proceeding; but, if this is to be the rule of action here, I will not be besmeared, Mr. Speaker, by a seat in this House. When was this House clothed with authority to inquire into and censure, except by impeachment, the conduct and motives of the Executive, in appointing and removing the members of his cabinet? Without evidence or a right to evidence, then,

sir, on this point, at this time, we might as well attribute the removal of the deposits to the removal of Mr. Samuel D. Ingham, as to the removal of Mr. W. J. Duane; for, if the former had never been removed, the latter had never been appointed. Sir, I thus lay aside this topic, which was improperly and unnecessarily (except for mere party purposes) introduced into this discussion, as unworthy the dignified consideration of any legislative body.

But gentlemen tell us, and the bank tells us, that the Treasury Department is not an executive department. Sir, this is the proposition which I rise chiefly to debate. To prove this proposition, gentlemen rely mainly on the reading of the act itself to establish the "Treasury Department," as contradistinguished from the Executive Department of War, of the Navy, and of State. Now, sir, let us beware of the confusion of ideas which is easily begotten by this word "department."

The powers of our Government are divided into legislative, executive, and judicial. In common parlance, we say our Government is divided into three departments; but the constitution does not name either branch of our Government a department. It divides, however, the executive branch, and the executive branch alone, into departments. When the Congress of 1789 used the term "department," then, in the law, did they use it in the common parlance, or in the constitutional sense? Certainly not in the common parlance sense, for that would have been in violation of the constitution—"to establish the Treasury department" a fourth department of the Government, co-ordinate with the other three, legislative, executive, and judicial. They must have used the term as legislators, in its constitutional sense, to mean the "Treasury Department" of the executive branch of the Government.

Then, by the use of this very word "department," the Congress of 1789 must have meant, *ex vi termini*, to describe technically a part of the executive power.

But, Mr. Speaker, we are not without light on the construction of this law of 1789 to establish a Treasury Department. The contemporaneous exposition of the law, as cited in Lloyd's Debates, by the gentleman from Tennessee, conclusively explains all the difficulty on this point. I will not detain the House longer than to call its attention to the fact, that, in the very last stage of the discussion of this question of responsibility to the President by the Treasury Department, Mr. Madison brought to the attention of the Congress of 1789 the anomalous character of the officer named a Comptroller in the act. His duties were at first considered doubtful by Mr. Madison, who submitted whether he had not judicial functions vested in him by the law. He contended that, if so, this officer of this department should not be responsible to the Executive, in whom no judicial power was vested by the constitution. But his suggestions were

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withdrawn; and even the Comptroller, whose duties have lately, too, been questioned, was left, as all other officers of his department were left, responsible to the Executive. And then, too, Mr. Madison combated this horrible idea of combining the sword and the purse, which is now so much harped upon as a new idea of new-light politicians. Sir, I have always noticed that when any great discovery has been made by modern politicians about our civil polity, it could easily be traced to the great masters who founded our system of government. This bright idea was perfectly familiar to them in discussion, and exploded by their decision. Mr. Madison ridiculed the objection. Why draw these distinctions in words, between the purse and the sword, when no separation of them in fact can possibly exist? If the time should ever come when despots are to reign, make your Treasurer independent of Cæsar, and give him nothing but a key and iron chest to defend the public moneys, and you would see, sure enough, how soon he would share the fate of Metellus. The idea is ridiculous, that you should give only a key to one officer to protect the treasury from another officer to whom you have given the sword. Shall we give the Treasurer a sword, too—a body guard, a money guard, at his sole command? Then he may become the tyrant, for he has both sword and purse! Thus did Montpelier's sage ridicule this mode of protecting civil liberty and the public treasure; at a time, too, when he was not "in the decrepitude of his faculties." Heavens! if the venerable form of that great man could now rise on this floor, there are those who, by their vehemence alone, are called the lions of this House, would shrink before the gaze of his "lack-lustre eye," and dwindle into pigmies before the giant strength of his faculties, even in their decrepitude. Party violence would be humbled before the dignity of his mien; dogmatism and bold assertion would falter before his knowledge; declamation would hush in the presence of wisdom and philosophy; truth would shine forth brightly from the still burning fires of his intellect; lawless ambition would cower before virtuous patriotism; and nullification—poor nullification, trembling under the cloak of his name—would flee away, stripped naked and exposed by the great author and finisher of the faith of State rights, and the greatest benefactor of the country in the cause of constitutional freedom.

But, Mr. Speaker, it is not statesman-like, and it is altogether fallacious, to argue this point from the law; it should be argued from the constitution. And I lay down this broad proposition, that we must ascertain the description of the responsibility of the Secretary of the Treasury, and of every other officer, from the nature of the duties which he has to perform. Has he judicial functions? No. Has he legislative powers? No. He has merely to execute

the law pertaining to his office. To which branch of the Government, then, does he belong? All legislative power is vested in Congress. The judicial power of the United States is vested in "one Supreme Court, and in such inferior courts as Congress may, from time to time, ordain and establish." And the executive power is vested in a President of the United States of America. If he is, then, merely an officer to execute law, is it not clear that he must be, no matter what the law may say, an executive officer? We are told not, by the gentleman from Pennsylvania, (Mr. BIRNEY.) He says that it does not necessarily follow that an officer merely to execute law must be an executive officer; that there are three departments of the Government, but there are executive acts to be performed under the control of each department, legislative, executive, and judicial. Sir, I admit his proposition, and put it to his candor to say, whether such executive acts, to be performed under the control of the legislative and judicial departments, are not exceptions made by the constitution itself. The clerks of this House and of the Senate, and their other officers, for instance, have executive acts to perform; but does not the constitution expressly provide that each House shall choose its own officers? The clerks of the United States courts have executive acts to perform; but does not the constitution expressly provide that "Congress may, by law, vest the appointment of such inferior officers as they think proper in the President alone, in the courts of law, or in the heads of departments?" All the officers mentioned by the gentleman, who have executive acts to perform independent of the Executive, are created by the constitution itself independent of the Executive; and I put it to the judgment of this House, though I am conscious of contending against mighty odds, whether the Secretary of the Treasury is either an officer of this House or of the Senate; or, whether he "is such an inferior officer," as those within the purview of the constitution? If so, why was his appointment not vested, by law, in the President alone, in the courts of law, or in the heads of departments? He is himself the head of a department: not of an executive department, says the gentleman. I defy him to point out to me any other than executive departments named in the constitution.

The true question here is, then, not whether the law has made the Treasury Department independent of the Executive, but whether the law could, if it so intended, make it independent of the Executive? Sir, the rule is as it was laid down in the debate of 1789: "that every power recognized by the constitution must remain where it was placed by that instrument." A late case decided by Judge Marshall confirms this rule. I mean the case *ex parte* Randolph.

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And this case is not in the least impugned by that of Marbury and Madison. There the question was not made whether the head of the department was not responsible to the President; but the proposition was rightfully sustained that, where a particular duty is specially vested by law in an officer, he is not only responsible to his superior officers, but also to the individuals and the public at large, for whom the duties are to be performed. And these, and all the authorities combined, prove that every officer created by law to execute laws is, "*ipso facto*," made responsible to the executive branch of the Government, whether the law intends so or not, except in those cases where the constitution itself has made him otherwise responsible. The Secretary of the Treasury comes not within the exception.

And, further, the moment you create an officer to execute law the head of a department, the constitution not only makes that officer responsible to the President, but it authorizes the President directly to interfere with his opinions, by calling for them "in writing, upon any subject pertaining to the duties of his office." And how this clause in the constitution could have been relied upon by the gentleman from Pennsylvania to convict the President of a usurpation of power, I cannot imagine. Sir, in the debate of 1789, on the organization of this very Treasury Department, these officers are called "the eyes and arms of the Executive." And the constitution not only makes them responsible to the President, but makes the President responsible to Congress and the people, by requiring that "he shall take care that the laws be faithfully executed;" not merely to take care that the laws "overcome resistance," as has elsewhere been said, and as this President has pretty effectually done of late, but as our "overseer"—southern gentlemen understand me—as our "overseer," Mr. Speaker, to make the public servants under his superintendence diligent and faithful; to take care that the people's business is done, and done well, as the law requires. And whether the President has done his duty in this instance, or has done more than his duty, in exercising his powers arbitrarily and oppressively, are not proper inquiries now, but for an impeachment; upon which I shall express no opinion until his sworn enemies in this House and out of it shall have made true their professions of belief, by originating and preferring the charges, heavy and heinous, of which they have told us he is guilty.

Yet, for the exercise of this superintending power over the execution of the laws, the President has been denounced as a Cæsar—a Cromwell—a Tiberius; and it has been said on this floor "that no King of England or France could do this without encountering a peril, which no President in these days can encounter—the loss of his head, for the exercise of arbitrary and despotic power." What, sir! is

it true that the people, too, are so base in bonds, so degenerate and corrupt that they already will tolerate in their President what the vassals, villains, or serfs of Europe will not tolerate in kings and autocrats? Sir, this calls rather for a vindication of the people than of the President. Basil Hall, or Mrs. Trollope, has never so attacked this country, its people, or its institutions. The gentleman from South Carolina (Mr. McDuffrie) has told us that the great question now is, "Who shall fill the throne?" Ay, therein is the solution. If the people had not been such a "stiff-necked people;" if they had not been such self-willed sovereigns; if another could have been king: gentlemen, perhaps, would have been better pleased, and the people would not be so much abused. Nothing but "Cæsars" and "thrones," despots, tyrants, and tyrants' slaves, seems to please the fancy of gentlemen. Men are apt to speak most of the things they think. A throne in this country! Where? Sceptres and thrones have crumbled before the white-headed old man whom we call President; the late dreams of "stars" and garters have been dispelled by him; and I believe, sir, that a "throne" has not yet been erected in the South *O!* Cæsar has not yet passed the Rubicon. I shall wait for the warning of Cato, not of Cassius. America's Cato, James Madison, has not yet been alarmed by the approach of Cæsar, and I can trust to the people to repel him. But Cato has been alarmed, of late, to be sure, in the timidity of his old age, by danger from another quarter—by those who would fill Cæsar's throne, (such a one as it is, or might be,) at the risk of the republic. Sir, I suspect him much, and immediately, who deliberately sets about lessening the authority of the old apostles of our liberty. Mr. Speaker, I am sick of the press, which on one side, now-a-days, invariably cries "all is well," and on the other side invariably cries "wolf, wolf;" which never speaks of abuses where it has the means of knowing abuses, and never rebukes oppression, but in the suspicious tones of faction. But there are certain patriots—patriots to the core—who verily are patriots, with whom patriotism will die—who sound the alarm of despotism, who decry tyrants and those in power, not to put the people on guard, to make them watchful of the fires, but merely because they would be those very powers that be; or have been, and have been "reformed." Sir, there are "outs" who would be "ins," and there are "outs" who have been "ins;" and now there is a definitive treaty of alliance between the two classes of "outs." I beg leave, sir, through this House, to call the attention of the people to a singular fact and a singular change of scene. A goodly portion of their "legislative department" now, is composed of what used to be their "executive department" formerly: those who used to hail from the "white house," now hail from this house here upon the hill, called a "capitol;" and ex-

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Secretaries and Vice Presidents have become installed legislators. No wonder, then, that they now contend that "executive offices," which used to be, and always have been considered to be, executive offices, are now "legislative" offices! No wonder, sir, that the legislative department should be so patriotic now, and that it should so bitterly denounce the executive department, as tyrannical, and unworthy of confidence. Sir, the thing is as plain as the white house and the capitol house. How long, oh ye people, will ye heed such presses and such patriots? When the people become too often disappointed and duped, and made supine by the cry of "wolf! wolf! when there is no wolf," then, sir, and then probably, too, will despotism make an easy prey of their liberties. How cautious should true patriots be, then, in raising a clamor against tyrants, where there are no tyrants, and alarm against slavery, where there are no slaves. Mr. Speaker, if the public mind can be familiarized with ideas of royalty, and royalty itself made less hideous, like vice, by familiar acquaintance with it, nothing can tend more to seduce the one by the introduction of the other, than for the great and leading statesmen of the nation habitually, in legislative assemblies, wantonly to denounce the President as a king, his chair of state as a throne, and the subordinate public servants as tyrants' slaves—than for them who should be above hiring editors' work, merely for denunciation's sake, to name him a tyrant and despot whose pre-eminent public services, and patriotism and virtues, have exalted him to high station, more to serve than be served—more to be tried than flattered. Sir, if this be king, and this a throne, and these be slaves, may not some begin to think that a king, a throne, and slaves are not quite so odious; and, in fact, not the despicable things they were once thought to be in this country? But the people are sound; it is the politicians who are corrupt; and they are too wise and virtuous not to understand such violence of invective and such recklessness of opposition to public men whom they have elected, in preference to those who inveigh against them, to do their business and superintend and protect their interests. How can any sound statesman believe himself, when telling us of thrones, and principalities, and powers, when at the very moment, instead of acting, he is debating, or instead of debating, he is declaiming?—when, instead of exclaiming for the state, for the law, the constitution, the liberties of the country—"rise! fathers, rise! 'tis Rome demands your help!"—he speaks rather more insignificantly of his petty self and of his petulant party, of their disappointment and immolation?—when, instead of speaking the sublime language of patriotism aroused and bursting with overwhelming indignation at an attack upon public liberty, he dwindles into the puling strain of electioneering complaint, because some alimy reptile has "crawled" into his place of power

or because he has served a party but too well, and has at last become the victim of a party leader?—whose very tone of invective is less, like the sound of aversion to a throne itself, than of reproach to the mere man who happens to fill a post once, and now, sought after by another? The people will inquire, if there be a Cæsar, why this good patriot is not a Brutus?—whether, in fact, he is not a better partisan than patriot?—whether he is not himself a disappointed aspirant after Cæsar's throne, and whether his hatred of Cæsar is, in fact, hatred of a tyrant? Mr. Speaker, in a certain "carruncle and king's evil" speech, I have heard a prayer put up of late. Not the prayer of the publican—"God be merciful to me a sinner!"—but the prayer of a politician, to "drive the Goths from the capitol!" It is highly probably, indeed, sir, that Goths, or the descendants of Goths, may now be in possession of the capitol; for that people, originally from Sweden and Norway, spread themselves very widely, and, as we are told in history, formed part of the population of several nations of Europe. In England, our mother country, the Celtic population was succeeded by the Gothic, and about two-thirds of England was possessed by the Belgic Goths. After many migrations under Odin, one of their kings, descended from the "Anuses," their demi-gods, they formed, in the inaccessible retreats of freedom, a people and religion, which should chastise the oppressors of mankind. They were hospitable, and derived their name from being eminently good to strangers. They encouraged philosophy, and made kings of sages. They invaded Greece, and, though they burnt the temple of Diana at Ephesus, yet they spared the libraries of Athens; and, though they sacrilegiously trampled over the bones of heroes from Thermopylæ to Sparta, yet their leader, Alaric, had embraced the Christian faith, which taught him to despise the imaginary deities of Rome and Athens. In 410, August 24th, "at the hour of midnight, the Salarian gate was silently opened, and the city was awakened by the tremendous sound of the Gothic trumpet! And 1163 years *ab urbe condita*, the imperial city, which had subdued and oppressed so many nations, was delivered to the Goths." It was Belisarius, the Africanus of New Rome, born among Thracian peasants, who drove the Goths, under Totila, sir, from Rome, in 547. For history's sake, then, sir, let President Jackson be called Totila—not Cæsar, a Roman—the leader of the Goths! And where is the Belisarius of New Rome—

"What was Goose creek once, is Tiber now"—

to drive this Gothic leader, Totila, from the capitol? Cæsar had his Brutus, and Totila his Belisarius; and let certain militia generals beware of such masters as Justinian, and of the old saying, "give a penny to Belisarius the general!" Sir, God Almighty, since the days of Joshua and his rod, has not stretched forth

his omnipotent arm to fight for placemen on earth, nor is his grace in divine wisdom intended to satisfy the hungering and thirsting of ungodly ambition, after power and popularity among men. If sought after and obtained, it may chasten the chafed spirit, and console and soothe the disappointments of the world; but never will foster and prosper the worst passions of the human heart. Mr. Jefferson, Mr. Speaker, who was an historian, was mistaken, it seems. He thought that there was "more of the Roman" than Goth in General Jackson, and that he was the Belisarius of New Rome, who did drive the Goths from the capitol in the year 1828. Yes, sir, and there are Justinians, who, influenced by envy and hate, though he has restored the keys of Rome more than five times in one reign, would deprive him of his eyes, and reduce him to beg his bread! Shade of the immortal Randolph, of Roanoke! Mr. Speaker, will this House pardon a digression? Though elected a member, it has not been formally announced to this House that John Randolph, of Roanoke, is no more! Sir, he was neither friend, nor acquaintance, nor old colleague of mine. I never saw him; I never heard him speak; but the genius of poetry, most like his own genius of oratory, has told me he was a man of

"A high demeanor and a glance that took
Their thoughts from others by a single look;
And that sarcastic levity of tongue,
The stinging of a heart the world hath stung,
That darts in seeming playfulness around,
And makes those feel that will not own the wound.

Born of high lineage, link'd in high command,
He mingled with the magnates of his land.

He did not follow what they all pursued,
With hope still baffled, still to be renewed;
Nor shadowy honor, nor substantial gain,
Nor beauty's preference, and the rival's pain—
Around him some mysterious circle thrown
Repell'd approach, and showed him still alone."

And, sir, though

"There was in him a vital scorn of all—

Yet they, the wiser, friendlier few, confess'd
They deemed him better than his air express'd."

If he was not a lover of man, he was a lover of his country; if not a lover of his whole country, he was a lover of the Old Dominion; and, if not a lover of Virginia, he loved "constituents such as man never had before!" Wear crape for common men—not for Randolph, whose fame is above such common-place honors in proportion as he despised them when living. Sir, I was about to express the wish that Mr. Randolph was alive and here, to see what I believe he once said he never did see, that "*rara avis in terris*"—a black swan! To hear the father of the American system, who has never, in thought or deed, varied from one faith—that of the most latitudinarian construction of the federal constitution: who, in every vote and every measure of his political career, has invariably practised, all of a sudden repudiating the doctrine of "the general welfare!" I would congratulate old Virginia and myself, sir,

if I thought this change was sincere. But I feel no wish, for his own sake, that Mr. Randolph should be here. He was a man, though of morbid, yet of keen and delicate sensibilities; proud himself, and prouder and more jealous still of his country's honor; he liked a decorum in all things, and would have been mortified and wounded at beholding what I have witnessed for the first time in public life. Heretofore, sir, there has been some little decency left even in the Warwick business of undoing and making Presidents. The dirty work of electioneering has been left to caucuses, committees, and demagogues. It was left to the kennel press to be the vehicle of party detraction and party puffing. But now, sir, the veil is thrown off. A branch of one of the co-ordinate powers of the Government is made the medium through which to abuse the public mind; its floor, the arena of political strife; and candidates themselves—the lions and their jackals—brazenly and unblushingly stalk forth their own avengers for past piques, their own champions and trumpeters for future honors—for such an office as that of the Presidency! Sir, suppose Tolly to be driven out; would there not immediately be a war in Rome between three rival factions, two of which are decidedly hostile to each other, and yet are now sworn allies? But, Mr. Speaker, I am done with this party warfare, and proceed to discuss the reasons of the Secretary of the Treasury for the removal of the deposits, as I have patiently, calmly, and deliberately considered them, independent of all party bias and party influence.

As the gentleman from Pennsylvania remarked, the Secretary's report consists of abstract propositions, of facts, and of inferences.

His first proposition is, "that the power of removal was intended to be reserved exclusively to the Secretary of the Treasury, and that, according to the stipulations in the charter, Congress could not direct it to be done." I totally deny this position, though I am aware that the gentleman from Pennsylvania, in the preliminary discussion on the reference of this subject, and the bank directors themselves, in their report, concede it to the fullest extent. And I can readily perceive, too, why the bank does concede it. If the Secretary of the Treasury and the President had been the friends of the institution, and if Congress had undertaken to order and direct the removal for reasons of danger to the deposits, the bank would, no doubt, have set up this position to prevent the original action of the legislative power of the Government. It asserts a no less important principle than that of the power of Congress to delegate its trust of keeping safely the public moneys of the United States. Sir, the law creating the charter, neither by its intention or its words, means by saying "unless the Secretary of the Treasury shall at any time otherwise order or direct" that Congress should not retain that power which the constitution itself confided to the Legislature, of controlling not

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only the public moneys, but the executive officer also who has them in charge. The law meant only that the Secretary should have the power of removing the deposits, where Congress was silent; and not that Congress should not have the power of ordering and directing him to remove the deposits, though against his will. This mere power of substitution was wisely placed in the Secretary, that he might act, upon sudden apprehension of danger to the deposits, when Congress might not be prepared to act promptly; and then, too, he must lay his reasons before Congress, to judge of their sufficiency, and to countermand his order, if the Legislature deems proper.

Gentlemen need not tell me that such is the contract, and "*ita lex scripta est.*" Such is not the law, and it could not be law if it so intended. The legislative branch of the Government as clearly has the power, by the constitution, to take care of the public moneys of the United States, as it has to appropriate them by law; and it can no more delegate the one power than the other. And to say that Congress has not the power originally to order and direct the Secretary of the Treasury to remove the public deposits, is at once to say that the legislative branch of the Government has not the power to abolish the Treasury Department itself, and the office of Secretary of the Treasury; or that, if such department and such office were to be abolished, the deposits would be subject to no control whatever, and there would be no guardian of their removal, their safety, or their existence. Sir, there is no doctrine so dangerous in a free country as that the legislative branch of the Government can delegate its powers. If we can divest ourselves of our legislative powers, and confer them upon an executive officer, there is nothing to prevent the creation of a dictatorship by law to-morrow. I do not consider that this abstract proposition properly belongs to the subject before us; but I have gone out of my way to protest against it, and to contend on all sides, as I hope I ever shall, that every power "recognized by the constitution must remain where it was placed by that instrument," and that it cannot be divested by mere statute law.

The Secretary of the Treasury next proceeds to a second proposition: "That the power reserved to the Secretary of the Treasury does not depend for its exercise merely on the safety of the public money in the hands of the bank, nor upon the fidelity with which it has conducted itself; but he has the right to remove the deposits, and it is his duty to remove them, whenever the public interest or convenience will be promoted by the change." Sir, after mature reflection, I am convinced that this proposition also is much too broad. It is true that the reading of the sixteenth section of the bank charter would seem not to limit the Secretary of the Treasury to any particular class of reasons for the removal of the deposits; but the other sections, and the whole context of the

law, do, it seems to me, limit him solely to the reason of their safety. In other words, he is bound to lay before Congress financial reasons, and financial reasons alone, for the removal of the public deposits: as that they are unsafe; that the bank has failed to give the necessary facilities for transferring the public funds from place to place, within the United States or their Territories; that it has failed to distribute the same in payment of the public creditors, without charging commissions or claiming allowance on account of difference of exchange; that it has failed to do and perform the several and respective duties of the commissioners of loans for the several States; in a word, that it has failed to do and perform the agency which it has contracted to do and perform for the Government. And now, sir, what are the reasons of the Secretary?

The only reasons of a financial description which he has laid before us are:

1st. That the charter will certainly expire on the 3d of March, 1836.

2d. That the bank, by contracting and expanding its credit, has endeavored to force a renewal of its charter, by bringing distress upon the money market.

3d. The conduct of the bank in relation to the three per cent. stock; and

4th. The claim for damages on the French bill.

Sir, I consider none of these reasons, if true, as sufficient for the removal of the deposits; but I shall not stop to discuss them. I consider that the bank has done nothing illegal or wrong in relation to the three per cent. stocks, the French bill, or the curtailing its discounts.

If either of the reasons which the Secretary gives is a good financial reason, it is that of the bank extending and curtailing its loans with a view to force a recharter, by creating pressure and panic. But, for the life of me, I cannot see that the bank commits a breach either of law or of good faith, or good morals, in granting or refusing to lend its money. It is its policy and its interest to procure a renewal of its corporate existence, if it can, by legal and rightful means; and I put it to myself, if I were a director of that institution, if I or any man would not consider it to be my duty, as such, to demonstrate, in any legal way, the utility and necessity of such an institution to the wants of the people and the Government? In relation to the three per cent. stocks, I candidly confess that, in my opinion, the bank has, in this instance, as in various others, subserved the purposes of the Government better than the Government could have served itself. And I venture to say that, if the bank were to sue the Government for the damages on the protest of the French bill, before any judge, Federal or State, deserving to be called a lawyer, it would obtain judgment and a verdict before any impartial jury of the country. I cannot condemn the institution, then, for acts which are strictly legal and morally just.

The other reasons of the Secretary are such

as pertain rather to annulling the charter, for violations of it by the bank, than to the removal of the deposits. Although the safety of the deposits is not involved in the question of solvency alone, and although reasons sufficient to annul the charter would seem, "*a fortiori*," to be sufficient for the removal of the deposits; yet I think that reasons for the removal should always involve, before Congress, the safety of the public funds; and that reasons for annulling the charter should always, in justice, be tried by a judicial tribunal, not prejudiced by party feeling, as every political body is; and that, until a decision by a tribunal of that sort, the deposits should continue to be made in the United States Bank, upon the principle that a corporation, as well as every individual, should be presumed innocent until legally proved guilty. And how are we to ascertain and to determine that the violations of the charter charged upon the bank have been committed, without assuming judicial functions, which belong of right to a court of law? The charter, sir, specially provides two different modes of proceeding against the bank for violation of its charter. It may be sued or prosecuted by individuals in "*qui tam*" actions, to recover penalties for certain specific breaches of charter, under the twelfth and thirteenth sections; or it may be sued for damages under the seventeenth section. And Congress or the President may, under the twenty-third section, order and direct a *scire facias* to be issued out of the circuit court of the district of Pennsylvania, in the name of the United States, calling on the corporation to show cause wherefore the charter shall not be declared forfeited. And every issue of fact shall be tried by a jury, with the right of appeal, by writ of error, to the Supreme Court of the United States. So far, then, as violations of the charter are alleged as reasons for the removal, the bank is fairly entitled, by the law and the contract, to a trial before a court of law, by an impartial jury of the country. And we cannot assume these violations to be true, or properly receive proof of their truth, with a view to try, until the courts appointed by law have sat in judgment. And if these courts adjudge the violations to have been committed, the charter will be forfeited, without coming before us for a decision; and if they acquit the bank, Congress has not the power of re-examining the fact, and of reversing their decision, as an appellate tribunal. I, therefore, shall vote for the resolution of the gentleman from South Carolina. But, sir, though we have not legitimately the power to try the bank for violations of its charter, yet, with a view to issuing a *scire facias* under the law, Congress has, and so has the President, the power to institute an investigation of its conduct and its concerns; and I am willing for an investigation to be made, not only with a view to the inquiry whether a *scire facias* should be issued against the bank, but in reference to the question of recharter, which is shortly to arise. Sir, I am undis-

guisedly and decidedly a friend to the constitutional power of Congress to incorporate a Bank of the United States on proper principles; and I am more than ever convinced that such an institution, properly organized, is absolutely necessary to conduct, not only the commercial operations of the people, but the financial operations of the Government; and there is no subject on which I differ more widely with the President and with the Secretary than on this important subject. I, for one, once did think that the President would sanction such a charter as can be made congenial to, and consistent with, the constitution. On all proper occasions, when using my feeble powers to re-elect him, I confidently declared this belief to many of the people whom I represent. And I am convinced, more than ever, that if you destroy even the highly objectionable charter which we now have, without substituting a better in its place, the currency will be irreparably deranged, and bitter experience will thrice teach us the evils that will inevitably follow. With a view, therefore, of again allowing gentlemen who are opposed to a bank of any kind the fullest opportunity of exposing the misconduct of this institution, if any can be shown, I desire a committee to be appointed, or the Committee of Ways and Means to be invested with the power of sending for persons and papers, with a view to anticipate and remedy all defects in a new or a modified charter. The whole House, or the Committee of the Whole, is too blunt a probe. I do not, Mr. Speaker, call for another such Quixotic committee as that which, during the last session, rode, Sancho-like, all the way from Washington to Philadelphia to make a tilt at Squire Biddle's breeches pockets; but a committee of Congress, sir, who, having specific charges for their data, will sit down here, sir, as a committee of Congress should, and send for Squire Biddle to come to them from Philadelphia, with his arithmetic and his figures.

I have now, Mr. Speaker, honestly, and independent of all party considerations, given my real views of this great question. I believe that the removal of the deposits, as a measure intended to relieve the country from distress, has hurried upon us in one day, whereof the evil is sufficient, both panic and pressure; and, as a measure calculated to defeat the recharter of the bank, it will tend, more than any other cause could have tended, to defeat its own object. It was an act most impolitic and unwise, in reference to its own ends. With these views, then, unless other reasons than those presented shall be developed upon further examination, I shall vote for the deposits of the moneys of the United States to be made for the future in the Bank of the United States and its branches, where established.

Does any man now ask if I am still a friend of this administration? In the words of Nimrod Wildfire, I answer—"most distinctly."

I do still, and as ever, desire the glory, and

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honor, and success of this administration. But, sir, I pray for the glory, and honor, and success of no administration, only as I devoutly and ardently desire the glory, and honor, and prosperity of my country. And when I differ with any administration as to what conduces to the prosperity of my country and the preservation of its blessings and liberty, I will not condescend to say that I shall speak out boldly. Sir, as the two hundred and eighty-eight fraction even of a co-ordinate branch of the Government, I feel myself independent of, uninfluenced by, and a check upon, the Executive. As a representative of a portion of those who are sovereigns of the President and myself both, I shall first maintain their principles and my own. I have freely and honestly supported this administration, and I mean freely and honestly to differ from it when constrained by my sense of right and my judgment; and I believe, sir, that no man has more charity, more indulgence, or more tolerance for a difference in opinion from him by his friends than General Jackson, notwithstanding all that we have heard about his self-will.

I beg leave, sir, before I sit down, to inform my constituents, through this House, (as is fashionable and very convenient now-a-days,) of the real state of parties in this President-making metropolis. There are more classes of "collar-men," sir, than one. The real truth is, that many who flaunt most the opprobrious epithets of party slang are themselves the most pitiable, leader-ridden followers after great men. Sir, he who runs may read the inscription of "collars" here. Some are inscribed "Kinderhook;" some "O—y;" some "O—n." And though the two last were wont to growl at each other, and fight most fiercely, they are now leashed together, and lap from the same trencher. And there are a few old bipeds, Mr. Speaker, who go trotting about, without any collar now upon their necks; but the crease is apparent, and the hair is all worn off to the flesh where the collars once rubbed. If any are concerned to know to which class I belong, I will very promptly and proudly refer them to *Æsop's* fable of the dog and the wolf. Like the hungry, half-starved rover of the forest, when I am beset by any dog politician with a crease on his neck, I can proudly say, "Liberty is the word with me! The lowest condition of life, with freedom attending it, is better than the most exalted station under restraint."

And, sir, if it shall be my will, and the will of the people who sent me here, to remain long in public life, whenever I may set my face towards some high place of power, to attain which it may be necessary to employ the machinery, the arts, the intrigues, and corruption of politicians, I may then, but not until then, begin to trim my sails to the breeze which blows. But, as I am now, and ever hope to be, an honest man, I shall be propelled straight forward by the single principle of duty and my country's good, and, like *Fulton's* mistress of wind and

wave, wait for no current and be blown by no wind!

TUESDAY, February 11.

The Pension Laws.

Mr. CHILTON's resolution on the extension of the pension laws coming up again—

Mr. CHILTON ALLAN, who was entitled to the floor, after referring to the general anxiety which prevailed to have the question taken on this resolution, (as its consideration superseded that of a great number of others offered since the debate commenced,) offered to waive his right to the floor, if a general expression should appear to be given that the question should now be taken without further debate: if not, he presumed that he should not hereafter be deprived of the opportunity of delivering his sentiments on the resolution.

Mr. GILMER said he was very desirous that the amendment offered by the gentleman from Virginia (Mr. BOULDIR) should be discussed, and he therefore suggested the propriety of postponing the subject until to-morrow.

Mr. STEWART thought it would be better to try the sense of the House, and therefore suggested to Mr. ALLAN to move the previous question.

Mr. ALLAN accordingly moved the previous question; which he said he had never done before, nor did he know that he should now vote for it, but to try the sense of the House.

The previous question was thereupon put, as follows: "Shall the main question now be put?"

Mr. MASON demanded the yeas and nays, and they were ordered, and were—Yeas 186, nays 66.

The main question was then put, viz.: "Shall this resolution be adopted?" and decided as follows:

YEAS.—Messrs. John Quincy Adams, John Adams, John J. Allen, Chilton Allan, William Allen, Ashley, Banks, Barber, Barnitz, Bean, Beardsley, Beaty, Beaumont, John Bell, James M. Bell, John Blair, Bodle, Boon, Brown, Bull, Bunch, Burd, Burns, Cage, Cambreleng, Carr, Casey, Chaney, Chilton, Choate, S. Clark, William Clark, Clay, Corwin, Cramer, Crane, Crockett, Amos Davis, Day, Deberry, Denny, David W. Dickinson, Duncan, Edward Everett, Horace Everett, Ewing, Fillmore, Forester, Philo C. Fuller, William K. Fuller, Fulton, Galbraith, Gillet, Gorham, Grennell, Halsey, Hamer, Hannegan, Hard, James Harper, Harrison, Hathaway, Hawes, Henderson, Howell, Inge, R. M. Johnson, N. Johnson, C. Johnson, Benjamin Jones, Kinnard, Lane, Lawrence, Luke Lea, Leavitt, Love, Lucas, Lyon, Lytle, Abijah Mann, McCarty, McComas, McKennan, McKinley, McLene, Mercer, Miller, H. Mitchell, R. Mitchell, Moore, Murphy, Osgood, Page, Parker, Patterson, D. J. Pearce, Pierson, Polk, Pope, A. H. Shepperd, Shinn, William Slade, Charles Slade, Sloane, Smith, Spangler, Standifer, Stewart, P. Thomas, John Thomson, Tompkins, Vanderpoel, Ward, Wardwell, Webster, Whallon, E. D. White, Elisha Whittlesey, Wilson, Young—120.

NAYS.—Messrs. Heman Allen, Archer, Barringer,

Bates, Baylies, Beale, James Blair, Bockee, Bouldin, Briggs, Bynum, Carmichael, Chambers, Chinn, Claiborne, Clayton, Clowney, Coffee, Connor, Coulter, Davenport, Deming, Dennis, Dickson, Philemon Dickerson, Evans, Foote, Foster, Gamble, Gholson, Gilmer, Grayson, Griffin, Hiland Hall, Thomas H. Hall, Joseph M. Harper, Hawkins, Hazeltine, Heister, Hubbard, A. Huntington, Jarvis, W. C. Johnson, S. Jones, Kavanagh, King, Lansing, Laporte, Lay, Lewis, J. K. Mann, Martindale, Mardis, John Y. Mason, Moses Mason, McDuffie, McIntyre, McKay, McKim, Muhlenberg, Parks, Patton, Franklin Pierce, Pinckney, Plummer, Ramsay, Reed, Bencher, Schenck, Schley, Speight, Stoddert, Sutherland, William Taylor, William P. Taylor, Francis Thomas, Turner, Turrill, Tweedy, Van Houten, Wagener, Wayne, C. P. White, Frederick Whittlesey, Williams, Wise—36.

So the resolution was adopted as follows :

Resolved, That a select committee be appointed, whose duty it shall be to inquire into the expediency of so extending the provisions of the act of Congress passed 7th June, 1832, granting pensions to certain classes of troops therein named, as to embrace in its provisions those who were engaged in the wars against the Indians subsequent to the close of the revolutionary war, and down to the treaty of Greenville, with leave to report by bill or otherwise.

The Removal of the Deposits—Sudden Death of Mr. Bouldin.

The deposit question coming up—

Mr. BOULDIN, of Virginia, rose to address the House, and began in the following words :

Before I submit some remarks I wish to make on the merits of the very serious question before the House, I must advert to a rebuke which, with all due humility, I received from my colleague, (Mr. WISE.) He stated, and truly, that, although Mr. Randolph, when he died, had been a member elect of this body, yet that fact had not been announced on this floor. I am not in the habit of taking to myself a general remark not peculiarly directed to myself; but when a general remark is of such a kind that it will apply to no one else, or not to any one else with equal propriety, I am compelled to take notice of it. My colleague did not as kindly suggest that this ought to have been done, until he mentioned it in his remarks on this floor; but another colleague most kindly and delicately did, through another person, suggest to me that it ought to be done; and now, as is my duty, I must tell my colleague, and this House, and my constituents, the reason why Mr. Randolph's death was not here announced. But I cannot tell the reason why his death was not announced, without telling what I told a friend that I should say, in case I did—

[Here Mr. BOULDIN swooned, fell, and in a few minutes after expired.]

And the House immediately adjourned.

WEDNESDAY, February 12.

Death of Mr. Bouldin.

As soon as the journal was read—

Mr. AROHER rose and said: I rise, Mr. Speaker, not to announce to the House—that were superfluous—but to submit the resolutions rendered proper by the dreadful catastrophe of which we were all appalled, and, I am sure I may add, afflicted, spectators yesterday; by which I have been deprived of an esteemed friend, and the State to which we both belonged, at a moment of the extremest public excitement, of one of the most valued and valuable of her representatives on this floor.

I know, sir, that I should outrage the feelings of the House, as I should violate my own, were I to avail myself of this occasion to pay at large the tribute of esteem to my departed colleague and friend, which would, under other circumstances, be due to the annunciation of his loss. He was of a character which might well be fruitful of panegyric, if it were now allowed me to dwell upon it. It was his fortune to have raised himself, from the humblest condition of life, to rank in his profession; to a high judicial station at home; and to a seat, and that no undistinguished one, on this floor, by the aid of merit alone. At an age approaching to majority, he was following the plough; and, so far from regarding this circumstance with shame, or desiring to conceal it, he had the superior mind to regard and to speak of it with exultation—as, what it truly was, an honor. Without fortune or influential friends, or the aid even of education, he had lifted himself to general esteem, to independence, and to a place which he regarded, as I do, inferior to none in point of honor—a seat in this House.

Sir, if I felt at liberty to pursue the theme, no man would be better authorized, from knowledge, to bear the high testimony which it merited to his character, as a private and a public man; nor, let me add, would there be any one who would be more glad and proud to render this just tribute to his memory and virtues. But I dare not pursue the theme, just and grateful as it would be. The awful catastrophe we have been called to witness and deplore speaks to our hearts, and, let me add, to our horror, in a language which forbids it. I feel that I ought not—may I say that I cannot—add more; and I content myself, therefore, after this brief and impartial notice, with sending to the Chair, the resolutions I hold in my hand, such as are ordinarily adopted on occasions of this description.

Mr. A. then moved the following resolutions:

Resolved, That the members of this house will attend the funeral of the late THOMAS TYLER BOULDIN at eleven o'clock to-morrow.

Resolved, That a committee be appointed to take order for superintending the funeral of THOMAS T. BOULDIN, deceased, late a member of this House from the State of Virginia.

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Case of Hardeman Owens.

[H. OF R.]

Resolved, That the members of this House will testify their respect to the memory of THOMAS T. BOULDIN, by wearing crape on the left arm for thirty days.

Ordered, That a message be sent to the Senate to notify that body of the death of THOMAS T. BOULDIN, late one of the representatives from the State of Virginia; and that his funeral will take place to-morrow, at eleven o'clock, from the hall of the House of Representatives.

The resolutions were unanimously adopted; and

The House adjourned.

THURSDAY, February 18.

No business was transacted in the House of Representatives to-day, the House being engaged in attending the funeral obsequies of the late THOMAS T. BOULDIN, one of its members.

FRIDAY, February 14.

Mr. WISE, of Virginia, addressed the House as follows:

Mr. Speaker, I ask the indulgence of this House, at its first meeting since the melancholy occasion of the funeral of my lamented colleague, (Judge BOULDIN,) whilst I discharge a delicate and solemn duty to his memory and to myself. His death, so sudden, and so shocking to all, was peculiarly distressing to me. It happened at a moment when he was about to reply to what he termed my "rebuke" to him. I hope it is not improper for me now to state to members, his family and friends, and my own, that there was not the slightest emotion of unkind feeling between us at the time he expired. Sir, when I had the honor of addressing this House but the other day, on the momentous question which so excited his ardent mind, and which still agitates this nation, as a father to a young colleague he sat by my side, and gave me the cheering encouragement of his countenance and his smiles. When I alluded to the fact that the death of his illustrious predecessor had not been announced to this House, I bowed to his venerable person, and disavowed the intention to "rebuke" him who filled the seat of Mr. Randolph with honor to himself, and usefulness to the country. But the day before he was cut down in the midst of his usefulness, we met in this Hall, and had a free and friendly conversation, which left nothing, on either side, unexplained. And I am confident that, if he had been spared but a few words more, he would have left no room for misunderstanding the relations in which we stood to each other. My object in making the allusion which I did to the death of Mr. Randolph was solely what I professed at the time, sincerely disclaiming any personal reflection upon my colleague, who, I never doubted, had good and sufficient reasons for failing to perform what seemed to be his appropriate duty. These reasons have since been made public. He said he would an-

nounce them fully when he came to speak on the deposit question. Alas! little did he anticipate that death would seal his lips, and bury him too in silence, before he should finish what he meant to have said on the death of his predecessor! I have the consolation to know that he died with a full knowledge that I intended no wound to his feelings, and no reproach to his conduct. And it becomes me to pay my humble tribute to his memory, when dead, as I paid him the homage of my respect, and confidence, and admiration, when living. I became acquainted with him late in the session; and, from that time until the moment he expired in the public service of this floor—a glorious death it was!—I have the proud satisfaction of believing that I daily increased in his good will, whilst I know he grew in my affections and in my estimation, as a noble, generous, and warm-hearted friend, an able and honest and useful man, a bold and true patriot, who "had done the State some service." He is gone!—lamented by none here more than by one who is comparatively a stranger to all his merits, his high worth, and exalted virtues; and whose fervent prayer to Heaven now is, that his departed spirit is reposing in peace in the bosom of his God!

TUESDAY, February 18.

Case of Hardeman Owens.

The resolution offered by Mr. GILMER, calling for information on the subject of the death of Owens, in Alabama, coming up—

Mr. BEARDSLEY, who had the floor, yielded it to

Mr. OLAY, who wished to explain. He had opposed this resolution when it had last been up, but had not at that time understood that one of the objects of the mover was to get information as to injuries which might have been done to the family of Owens, with a view to obtain restitution to the widow. It had also been since intimated to him that another object was, to inquire whether one of the officers at Fort Mitchell had not contrived to run off the man charged with the killing of Owens, so as to put him beyond the process of the courts of Alabama. He therefore withdrew his opposition to the resolution. He also admitted that he had been mistaken as to the conduct of Major McIntosh in relation to the process to apprehend the soldier; that officer had, at no time, resisted the process, but had afforded every facility for having it served.

Mr. BEARDSLEY, believing that the resolution was calculated to lead to much discussion on a very exciting subject, had intended to move to lay the resolution on the table; but, as there seemed a general wish to get a decision upon it without delay, he would move the previous question.

The motion was refused.

Mr. HARDIN addressed the House in a very animated speech, in support of the resolution.

Mr. MARDIS considered the speeches unnecessary and premature, as none were opposed to the resolution. The only effect of discussing the subject, before the information was obtained, must be to prejudice the public mind in a case where the character of a public officer was concerned.

Mr. WILDE made a very spirited reply to the explanation of Mr. CLAY; protesting, utterly, against placing the resolution on such grounds. It rested on the rights of every American citizen.

The resolution was again read and adopted, without a dissenting voice, as follows:

Resolved, That the Secretary of War be directed to communicate to this House all correspondence which he may have had, or other information in his possession, in relation to the death of Hardeman Owens, a citizen of Alabama, who was lately put to death by a party of regular soldiers; whether said Owens was put to death in pursuance of orders from the War Department, or any officer of the United States; and also that he communicate to this House any correspondence which he may have had, or other information in his possession, in relation to any obstructions thrown in the way of the execution of the process of the courts of Alabama, issued for the purpose of bringing to trial those by whom said Owens was killed."

WEDNESDAY, February 19.

The Army Commissariat—General George Gibson.

Among bills on their third reading was the following:

A BILL to render permanent the present mode of supplying the army of the United States, and fixing the salary of certain clerks therein named.

Be it enacted, &c., That the act passed March 2, 1829, entitled "An act to continue the present mode of supplying the army of the United States," shall be continued in force until repealed by Congress.

SEC. 2. *And be it further enacted*, That the principal clerk in the office of the Commissary General of Subsistence shall receive the annual sum of sixteen hundred dollars, one of the other clerks the sum of twelve hundred dollars, and the other clerk the sum of one thousand dollars.

On this bill an animated debate arose.

Mr. JOHNSON, of Kentucky, in a few remarks, explained the grounds of the bill.

Mr. WILDE made a short speech in opposition to it, chiefly on the ground that it went to increase the number of clerks in the Commissariat Department, and to raise the salaries of some of them.

Mr. THOMSON, of Ohio, explained and vindicated the grounds on which the bill had been reported.

Mr. VANCE supported the bill, urging the necessity of its passage, as the present law for supplying the army would expire in March next. He spoke with high commendation of the existing state of the commissariat of the army; in

proof of which the books would show that the entire wastage in the supply of the whole of our military posts amounted to less than one per cent. He contrasted with this the state of things under the old system—in which twelve per cent. was allowed in turning over stores to a new contractor; and the defalcations on the part of commissaries, he said, were enormous. As to the subject of clerks, he adverted to the increase of business in the department, from its having been charged with the supply of rations for the Indians. He bore honorable testimony to the ability, fidelity, and diligence of the officer and clerks now in employ in that branch of the public service. Better officers were not to be found in any department of the Government.

Mr. McKAY, of North Carolina, opposed the bill. The present law, he said, would not expire till the close of the next session; so there could be no haste in the case. He was not opposed to the general system of supplying the army, but objected to the mode in which the law was executed. The commissaries were ninety-seven, instead of fifty in number, as had been provided by the act of 1821. He was opposed to taking so many officers from the line of the army. Besides, the assistant quartermasters ought to be required to do the duty of assistant commissaries.

Mr. SPEIGHT concurred in the commendation of the clerks, but wished the further consideration of the bill postponed to Tuesday.

Mr. R. M. JOHNSON replied to Mr. McKAY, insisting that the increase in the number of commissaries formed no objection whatever to the bill. The country had lost thousands—yea, millions—by the foolish economy of employing too few officers, for fear of the expense of their salaries. He compared the public service, in this respect, to the management of a large farm, whose owner must lose largely if he refused to employ the requisite number of hands on his estate. He passed a high eulogium on the present head of the commissariat, (General Gibson,)* and bore testimony to the great accuracy of his accounts while so many millions were passing through his hands.

Mr. BLAIR, of South Carolina, concurred in the views of Mr. McKAY, and moved to recommit the bill.

Mr. P. O. FULLER, of New York, thought it would be best to have two separate bills for the two distinct objects comprised in the present one.

Mr. VANCE wished distinctly to understand whether the object of those who opposed the bill was to take the supply out of the hands of the officers of the army, and give it to private citizens?

* General George Gibson, of Pennsylvania, an officer of the army for half a century, rising through every grade, and an ornament to every one. He was appointed Commissary General at the establishment of the system in 1821, and still retains the place with universal approbation.

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Mr. McKAY explained, and seemed to disclaim such a purpose.

Mr. VANCE went on to defend the bill, and again referred to the vices of the old system. In illustration of which, he said that he had recently examined what is called "the Black Book," containing the list of defaulters to the Government, and found there an amount of fifteen millions lost to the Government in this department of the service alone. Now, there was not the defalcation of one dollar. As to the expiration of the present law, the Commissary General himself was under the apprehension that it would happen on the 1st of March next.

Mr. BLAIR did not wish to change the existing organization of the staff, but only to alter the bill in some of its details.

Mr. WILDE offered instructions to the Military Committee to report two distinct bills, in lieu of that now before the House. He concurred with Mr. VANCE in his hearty approbation of the existing system; but objected to some features of the bill, and was opposed to all indefinite legislation.

Mr. EVERETT, of Vermont, wished the bill referred to a Committee of the Whole, where it would receive all necessary amendments.

Mr. BLAIR thought it could be better amended in the Military Committee.

Mr. MILLER, of Pennsylvania, replied to Mr. McKAY, and advocated the bill. He had heard no reason why the number of commissaries proposed was too great; no abuse was charged; on the contrary, all agreed in commending the administration of the whole department. As to indefinite legislation, it was an objection which applied equally to most of the bills passed in the House.

Mr. WARD advocated the bill with great warmth, and could not conceive how any rational being could wish it divided. As to the clerk's salaries, it only placed them on a footing with the other clerks in the War Department. It was time, after so many weeks, that the House began to do something.

Mr. WILDE said that if his rationality was to be measured by his not desiring the bill to be divided, he must conclude, with Dr. Franklin, that the Almighty had not endued man with reason, but only with a sensible instinct.

Mr. WARD explained, and disclaimed personalty in the remarks he had made.

Mr. WILDE thought the gentleman mistaken in supposing that the bill only placed the clerks on the same footing with others. It gave them more; and the House would immediately be applied to, to raise the salaries of other clerks in like manner.

The question was taken on the instructions moved by Mr. WILDE, and negatived.

The bill was recommitted to the Committee on Military Affairs, without instructions.

• THURSDAY, February 20.

Death of Mr. Wirt.

After the reading of the journal,

Mr. MASON, of Virginia, rose and said: Mr. Speaker, it has become my melancholy duty to advert to a recent dispensation which has deprived the bar and the country of one of the greatest ornaments of both: I allude to the death of William Wirt! The funeral ceremony takes place this day, and it is the wish of many members of this House to pay that tribute of respect to his memory which all feel to be due—the accompanying of his mortal remains to the tomb. It is not my intention to pronounce a eulogium—an unnecessary eulogium on the deceased; but I may be permitted to speak of his urbanity of manners, his fidelity to his friendship, his gentleness of disposition, his benevolence of heart, and of those eminent literary attainments which have shed so bright a lustre on his country.

It is due to the exalted merits, to the virtues, and to the purity of mind and heart of the lamented and illustrious dead, that some signal mark of public respect should be awarded to his name. To us, in Virginia, where the prime of his life was passed, and where his example can have, as it has had, the most beneficial effects, the honor rendered to him will be the more peculiarly gratifying.

Mr. Speaker, I move that the House do now adjourn.

And the House adjourned.

FRIDAY, February 21.

Eulogium on Mr. Wirt.

When the SPEAKER had called the House to order—

Mr. ADAMS, of Massachusetts, addressed him, before the reading of the journal, as follows:

Mr. Speaker: A rule of this House directs that the Speaker shall examine and correct the journal before it is read. I therefore now rise, not to make a motion, nor to offer a resolution, but to ask the unanimous consent of this House to address to you a few words, with a view to an addition which I wish to be made to the journal, of the adjournment of the House yesterday.

The Speaker, I presume, would not feel himself authorized to make the addition in the journal which I propose, without the unanimous consent of the House; and I therefore now propose it before the reading of the journal.

I ask that, after the statement of the adjournment of the House, there be added to the journal words importing that it was to give the Speaker and members of the House an opportunity of attending the funeral obsequies of William Wirt.

At the adjournment of the House on Wednesday, I did not know what the arrangements were, or would be, for that mournful ceremony.

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Mrs. Susan Decatur.

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ny. Had I known them, I should have moved a postponed adjournment, which would have enabled us to join in the duty of paying the last tribute of respect to the remains of a man who was an ornament of his country and of human nature.

The customs of this and of the other House of Congress warrant the suspension of their daily labors in the public service, for attendance upon funeral rites, only in cases of the decease of their own members. To extend the usage farther might be attended with inconvenience as a precedent; nor should I have felt myself warranted in asking it upon any common occasion.

Mr. Wirt had never been a member of either House of Congress. But if his form in marble, or his portrait upon canvas, were placed within these walls, a suitable inscription for it would be that of the statue of Molière in the hall of the French Academy—"Nothing was wanting to his glory; he was wanting to ours."

Mr. Wirt had never been a member of Congress; but for a period of twelve years, during two successive administrations of the National Government, he had been the official and confidential adviser, upon all questions of law, of the Presidents of the United States; and he had discharged the duties of that station entirely to the satisfaction of those officers and of the country. No member of this House needs to be reminded how important are the duties of the Attorney-General of the United States, nor risk I contradiction in affirming that they were never more ably or more faithfully discharged than by Mr. Wirt.

If a mind stored with all the learning appropriate to the profession of the law, and decorated with all the elegance of classical literature—if a spirit imbued with the sensibilities of a lofty patriotism, and chastened by the meditations of a profound philosophy—if a brilliant imagination, a discerning intellect, a sound judgment, an indefatigable capacity, and vigorous energy of application, vivified with an ease and rapidity of elocution, copious without redundancy, and select without affectation—if all these, united with a sportive vein of humor, an inoffensive temper, and an angelic purity of heart—if all these, in their combination, are the qualities suitable for an Attorney-General of the United States, in him they were all eminently combined.

But it is not my purpose to pronounce his eulogy. That pleasing task has been assigned to abler hands, and to a more suitable occasion. He will there be presented in other, though not less interesting lights. As the penetrating delineator of manners and character in the British Spy—as the biographer of Patrick Henry, dedicated to the young men of your native commonwealth—as the friend and delight of the social circle—as the husband and father in the bosom of a happy, but now most afflicted family—in all these characters I have known, admired, and loved him; and now, witnessing, from the very windows of this hall, the last act of piety and

affection over his remains, I have felt as if this House could scarcely fulfil its high and honorable duties to the country which he had served, without some slight, be it but a transient, notice of his decease. The addition which I propose to the journal, of yesterday's adjournment, would be such a notice. It would give his name an honorable place on the recorded annals of his country, in a manner equally simple and expressive. I will only add that, while I feel it peculiarly incumbent upon me to make this proposal, I am sensible that it is not a fit subject for debate; and, if objected to, I desire you to consider it as withdrawn.

The CHAIR stated that the rule, in reference to the journal which had been read, referred to the duties of the Speaker when *out* of the chair, not *in* it. The Speaker had not felt himself warranted to insert any further record in the journal of yesterday than the simple fact of the adjournment; but if it was the pleasure of the House that the clause proposed should be added, the Chair would most cheerfully assent.

Mr J. K. MANN, of Pennsylvania, object—

Mr. BLAIR, of South Carolina, inquired whether the pleasure of the House could be obstructed by the objection of a single member!

The CHAIR said that, if a motion should be made, a majority of the House could, of course, have their journal modified to suit their own pleasure.

Mr. ADAMS then observed, that he had hoped no objection would have been made; but as it seemed not to be sustained by the general sense of the House, he would renew his motion that the clause he had read be added to the journal of yesterday's proceedings.

The question being put, it was agreed to without a division, (by nearly a unanimous vote.)

Mrs. Susan Decatur.

This bill was, as heretofore whenever before the House, the subject of a protracted discussion.

Mr. PATTON, from the Committee on Naval Affairs, opened the case on behalf of Mrs. Decatur, and the other persons concerned, and went into detail of the circumstances of the exploit, to reward which the bill was reported. Mr. P. then went into the consideration of a constitutional objection which had formerly been urged in opposition to the bill. He next explained and defended the disposition of the reward among the claimants; and closed with a warm and merited commendation of the valor and enterprise of Commodore Decatur.

Mr. ORANGE, though not opposed to the appropriation of the sum proposed, objected strongly to the proportions in which the money was to be shared. The bill assigned to the commander the lion's share. In such an expedition, the services of the men were of great value, and they ought to receive in analogy to the provisions of the prize law.

Mr. PARKER replied, and defended the bill.

men whose experience and on might have insured general had waited to the last moment, vain; and now, upon its passage, gentlemen to pause before they provide, by presumption, for satisfactory character, from any quarter. he was not insensible of the which the bill now under came before the House. It came, God, with the unanimous appro- mittee entitled to the most and it related to services, the of which moved our pride and They were services beyond all eve all price. He spoke of the services generally. But while wing with the glorious recollec- recurrence to that period never in; while we cherish with affec- rence the memory of the brave day, now no more; while we most cheerfully grant, to their is justly due; and while we do he who still survive our grateful our treasure also, he trusted we the full impulse of generous feel- what was due from the gentle- ing this House as the descendants

sir, said Mr. P., are the objects ed by the bill, and what are its the general object is plainly and in the introduction of the com- They say:

my petitions before them asking the five years' full pay, promised by the Congress of the 22d of March, 1783, of the revolutionary army, they ed, by several considerations, to pre- a bill; the object of which is, to al some other similar claims from the committee and of Congress, and have the Treasury Department."

eld not be disposed at any time, he disposed now, when so much p the tendency of power, and of of responsibility to the Exec- from us any duties which have ed, or any responsibilities which rested here, unless the reasons er shall appear obvious and con-

than fifty years since the passage on referred to by the committee on of commutation claims. The ing suitable provision for the off- of the Revolution was one of d most intense interest, not only themselves, but to the country a 1778 down to the passage of tion resolve of 1783. Mr. P. that individuals, having substan- against the Government, did not long in ignorance of the fact: and

he was curious to know how it happened that these claims had slumbered during the whole of this period. Considering the frequency and earnestness with which the subject was urged upon Congress by the Father of his Country, and the anxiety with which it was regarded by the officers themselves, it was not to be presumed that any were so listless as to remain in the dark with regard to their own rights. In his judgment, it was reasonable to suppose that the number of legal and just claims would, by this time, have been so far diminished, as to leave little for the action of Congress or of any department.

Since, however, that which might naturally have been expected to occur seemed not to have obtained in this particular instance, he knew not that he should have raised any particular objections to sending the claims to the Treasury Department, provided they were to go there relying upon their merits, and depending for their allowance upon evidence ordinarily required of revolutionary services, and not upon presumptions. If the bill did not embrace the rules that are to be regarded as fixed principles, and to which he trusted he should be able to satisfy the House there were strong, if not insurmountable objections, it would still be exceptionable. He understood that it was not formerly the practice of Congress to allow interest upon these claims, even where they were brought by satisfactory evidence within the provisions of the resolution of 1788; and it struck him that a different practice never should have obtained, except in cases where the claimant furnished sufficient reason for his delay, showing that it was attributable to no fault or negligence on his part. If correct in this view, it would be clearly wrong to sanction the principle, generally, as is provided by the third section of, the bill.

In speaking of what he considered to be the most objectionable features of the bill, Mr. P. said he should confine himself chiefly to its operation upon those who were entitled to half-pay for life, under the resolve of 1780, at the second important change in the arrangement of the army after its establishment; and to some portion of the history of the subsequent action of Congress upon the subject, it might be proper for him to call the attention of the House. By the resolution just referred to, those who were reduced by the arrangement which then took place, as well as those who served to the close of the war, were entitled to half-pay for life. That this provision was made under very peculiar circumstances, was matter of history; and it was well known to all within the reach of his voice that it was regarded with jealousy and dissatisfaction, both by the soldiers, who had behaved with equal valor, and endured equal hardships, and by the citizens generally. They regarded it as anti-republican; they thought it setting up, in the then young republic, invidious distinctions, and establishing, for that generation at least,

a privileged and pensioned class, inconsistent with the equal rights for which they had been contending, and at variance with the genius and spirit of such a Government as they hoped to see established and maintained.

In March, 1783, a change was made; and what was the moving cause of that change! A memorial from the officers themselves. The preamble of the resolution recites that, "whereas the officers of the several lines, under the immediate command of his excellency General Washington, did, by their late memorial transmitted by their committee, represent to Congress that the half-pay granted by sundry resolutions was regarded in an unfavorable light by the citizens of some of these States, who would prefer a compensation for a limited term of years, or by a sum in gross, to an establishment for life," &c. To satisfy the memorialists and the country, five years' full pay was granted in lieu of half pay for life; and it is for this commutation that petitions are now pouring in upon you, and claims arising under the resolution just referred to, and those, the adjustment of which the bill proposes to transfer to the Treasury Department, with rules of evidence which might possibly facilitate, as the committee suppose, the allowance of some just claims; but which will, at the same time, open a wide door for imposition, and for the assertion of rights which have no legal or equitable foundation, and which may still be honestly urged by the heirs of deceased officers. Sir, said Mr. P., is it not admitted by the report that this will be the operation, to some extent? Speaking of these rules, the committee say:

"It is possible that their universal application may lead to the allowance of some claims which do not come strictly within the original terms. But this will be no new evil; and it is certain that, if they are not applied, many just claims must be rejected for the want of technical proof." To the correctness of this last clause, he must be excused for withholding his assent.

If evil has heretofore arisen, or is liable to arise, from application of the said rules of evidence, is that now to be used as an argument in favor of transferring duties from the House to one of the departments, and transferring them with instructions binding the Secretary, and making certain the continuance of the evil? He trusted not. If presumption, and not evidence, was to be the ground on which claims are to be allowed, in any instance, would it not be more wise to retain them here, where a spirit of liberality, and yet a sound discretion, may be exercised in each particular case, according to its circumstances, than to give them a direction anywhere else, accompanied by instructions which it was admitted might lead, and which, in his humble judgment, would inevitably lead, to the acknowledgment of many unjust claims?

Again, the committee say:

"If there is any apprehension that the principles

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here declared are too liberal, it must be recollected that the tendency of legislation for individual claims is constantly to enlarge the basis of right; while the effect of transferring them to another tribunal, more judicial in its character, will probably be to retain that basis essentially within the limits fixed at the moment of transfer. If, therefore, it should be supposed, or even admitted, that the principles asserted in the bill are more liberal than the present practice of Congress, it may be considered certain that, in its continued action, they would soon be surpassed in liberality."

That is, if we are acting upon too liberal principles—too much upon presumption—we had better at once send out these presumptions to be the guide of others than longer to trust ourselves. Why? Because "the tendency of legislation for individual claims is constantly to enlarge the basis of right;" and we are in danger of being further from those principles which should govern prudent legislators, watchful of the interest of those whom they represent as they would be of their own, than we now are. Mr. P. said, however just this might be in point of fact, he was not yet prepared to admit it as principle of action; and, while no one would lend his support more readily to any claim that might come here sustained by proper evidence, he trusted the correctness of such a proposition might never find support in any vote of his.

Speaking of the operation of the limitation acts, the committee say further:

"Driven from the ordinary means of redress, individual claimants, from time to time, resorted to Congress for relief. At first, it may have been a matter of consideration and of serious question whether relief should be afforded after the limitation had expired, and the party was at least held to account for his delay; but in process of time, it became, as it now is, a matter of course to grant relief in every case in which the claimant brings himself, by proof, within the terms of the resolutions on which the claim is founded, and has not been already paid."

Mr. P. trusted that wrong practice and precedent founded in error were not to be regarded as guides here. He solemnly believed that, if precedent and practice were to be relied upon, gentlemen might readily find justification for going almost any length in any direction.

In the case before the House, it was so exceedingly probable that all claims founded in right were adjusted, and so fallible and uncertain was human testimony, after a lapse of fifty years, that he had no hesitation in declaring it was his firm conviction that the former course was the proper one; and that applicants, who came in after the extension act of 1792, should always have been held to account for their delay. It was not, of course, intended to give commutation to those, or the heirs of those, who received certificates in 1784, or who have, at any time since, under any circumstances, received commutation.

Before examining more particularly the pre-

sumptions which this bill directs the Secretary to assume, let us consider, for a moment, what are the natural presumptions in the case. The commutation provided for by the resolution of 1783 was originally directed to be adjusted by commissioners, or other accounting officers, appointed by Congress; and it was supposed that certificates were almost universally granted in 1784. Why should it not have been so? They were ready, upon application and the production of the proper evidence; and he put it to the House, whether the provisions of that resolution, and the rights accruing under it, considering the circumstances under which it was passed, upon the application of the officers themselves, must not have been known to every officer living within the limits of the United States? Mr. P. thought it utterly incredible that it should have been otherwise. Whenever there had been any action upon the subject of pensions, in later times, what period had elapsed before that action, whether favorable or unfavorable, and almost every particular attending it, had, through one channel or another, reached the humble dwelling of every survivor of that noble band? But, upon the supposition that, from their remote situation from the accounting officers, some might, by possibility, have been precluded from obtaining their rights, an act was passed on the 27th of March, 1792, suspending the operation of the limitation acts for two years; and, under this extension, remaining claims, or such as were presented, were adjusted at the Treasury Department, by what were then termed "certificates of registered debt." Again, he inquired whether it was within the bounds of reasonable probability that any claims were held up after this period, if they were ever intended to be enforced? Sir, said Mr. P., it is to be remembered that, during all this time, it was not, as it unfortunately now is. There were hosts of living witnesses among the officers with whom the claimants served, and the soldiers whom they commanded. Nor is the advantage which the officer had, from his position over the private soldier, of proving every particular connected with his service, and its duration, to be overlooked. Men engaged in the same great cause, and serving in the same camp, were no strangers to each other; never, perhaps, was there a band bound together by such ties of affection, intimacy, and confidence. Genius, honor, and unshaken valor then went hand in hand, and were in exercise, not from low considerations of personal aggrandizement, but to vindicate a nation's rights. The links that bound men together at that day exist not now. Their intimacies and their friendship were those which, perhaps, from our very natures, can only spring up and flourish amidst the mutual dangers and privations of a camp. At the period of which he spoke, every incident of the exciting and eventful struggle through which they had just passed, must have been fresh and vivid in the recollection of all: nothing need

then have been left to doubt, nothing to presumption. But this is not all. From 1794, down to this hour, there had been the same opportunity to obtain equitable rights, by application to Congress, that exists at present.

With these facts before us, said Mr. P., if the natural presumption be not that all just claims have been satisfied, according to the provisions of the resolution of 1788, he confessed that the conclusions at which he had arrived were singularly erroneous. The House had nothing to do with the question of the value of the certificates; they were, without doubt, nearly valueless in the hands of a large portion of the original holders. This subject was most satisfactorily discussed in the able and elaborate reports made to both Houses at the first session of the twenty-first Congress, when the act was passed providing for the officers who were entitled to half-pay by the resolve of 1780, and for the non-commissioned officers and soldiers who enlisted for, and served to, the close of the war. The views taken in these reports were interesting and instructive upon this subject. But he was considering what was the natural presumption as to commutation rights still existing; and, if his views were in any tolerable degree correct, it was diametrically opposed to the legal presumption to be established by the passage of this bill.

Sir, continued Mr. P., we are told that the evidence of records is exceedingly imperfect, and I assure the House that such is the fact to a much greater extent than I had supposed, before applying to the department for information. The muster-rolls had been almost entirely destroyed by fire, and all the records, from various casualties, were broken; but this deficiency of record evidence was, in his estimation, much more the misfortune of the Government than of the claimants, who came here after the lapse of fifty years. But pass your presumptions, sir, said he, and you will have little occasion for evidence. It is said that the rules which are to be regarded as fixed principles by the department, provided this bill pass, are the same which the committee have adopted in the investigation of claims coming before them. If so, and they accorded with the sentiments of the House, he confessed it was a matter of very little consequence whether they were applied here or elsewhere; and he was happy that the bill had been reported, that the opinion of the House might be deliberately and understandingly expressed upon the propriety of their adoption. Sir, said Mr. P., will not their operation be that of a new law upon the subject of commutation? Look at the first presumption of the bill; it has the advantage of being plain; there is no ambiguity about it.

"It being established that an officer of the continental line was in service as such on the 21st of October, 1780, and until the new arrangement of the army provided for by the resolution of that date was effected, he shall be presumed, unless it appear that he was then retained in service, to have

been reduced by that arrangement, and therefore entitled to half-pay for life, or the commutation in lieu of it."

The *onus probandi* was shifted; the burden of proof was not left where it was intended it should rest—with the claimant, but it was thrown upon Government. He presumed it was not expected that the Government would send agents abroad to obtain negative evidence from living witnesses. How, then, was it to be shown, in the present imperfect state of the records, that an officer was not reduced, and did voluntarily leave the service? The effect of such instructions would virtually be to give commutation to all who were in service on the 21st of October, 1780, and until the new arrangement was effected, instead of to those only who were actually reduced, as was originally contemplated. He called the attention of the House to the second presumption:

"2d. A continental officer, proved to have remained in service after the arrangement of the army under said resolution of October, 1780, shall be presumed to have served to the end of the war, or to have retired entitled to half-pay for life, unless it appear that he died in the service, or resigned, or was dismissed, or voluntarily abandoned an actual command in the service of the United States."

This, also, manifestly made new provision; granting commutation to those who were in service after the new arrangement in 1780, instead of to those who actually served to the close of the war; for, in the state of record evidence, as declared by the committee, how was it possible for the Government to prove, in very many instances, that the claimant, or the ancestor of the present claimant, "died in the service, or resigned, or was dismissed, or voluntarily abandoned a command in the service of the United States?" There was no possible means of doing it. Mr. P. would pursue the subject no further. If there was no fallacy in these premises, and the conclusions were legitimate, they were sufficient for his purpose. The House would not think of passing the bill in its present shape. He ought not longer to ask the attention of gentlemen, for which he was already under great obligation. Such were some of the objections to the bill that had occurred to Mr. P., and thus much he thought it his duty to say. For the committee making the report he entertained the highest respect; and he believed that he was no less disposed than they were to grant, to the uttermost farthing, all that was due to revolutionary officers or their heirs. But, said Mr. P., pass this bill, and you will do great injustice to the country; you will make a most exhausting draft upon your treasury, to answer, it may be, some equitable claims that may as well be liquidated without it; and you will, it is morally certain, be compelled, under it, to acknowledge a vast number which have no foundation in justice—no foundation anywhere, except in lost records and violent presumptions.

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Removal of the Deposits.

[H. OF R.]

FRIDAY, February 28.

Reduction of Revenue.

Mr. HALL, of North Carolina, offered the following resolution :

Resolved, That the Committee of Ways and Means be instructed to inquire into the expediency of reporting a plan, accompanied by a bill, to reduce the revenue to the necessary expenses of the Government.

Mr. STEWART moved the question of consideration.

Mr. McDUFFIE requested Mr. S. to withdraw his motion; but he declined doing so.

Mr. CONNOR then demanded the yeas and nays upon the preliminary question of consideration; which were ordered, and taken as follows:

YEAS.—Messrs. Archer, Barringer, John Blair, Bockee, Boon, Briggs, Bunch, Bynum, Cage, Cambreleng, Casey, Chaney, Chinn, Claiborne, Clay, Clayton, Connor, Deberry, Dennis, Dickinson, Duncan, Dunlap, Ewing, Felder, Forester, Fowler, Philo C. Fuller, Gamble, Gholson, Gordon, Grayson, Griffin, T. H. Hall, Hannegan, Hawkins, Hawes, Heister, Hubbard, Inge, N. Johnson, C. Johnson, Kinnard, Luke, Lea, Lewis, Loyall, Lucas, Mardis, John Y. Mason, McDuffie, McKay, McKim, McKinley, R. Mitchell, Patton, Peyton, Pinckney, Polk, Rencher, Schley, W. B. Shepard, C. Slade, Speight, Standifer, Stoddert, William P. Taylor, Thomson, Wayne, C. P. White, Wilde—69.

NAYS.—Messrs. J. Q. Adams, J. Adams, H. Allen, J. J. Allen, C. Allan, W. Allen, Anthony, Ashley, Banks, Barber, Barnitz, Baylies, Beale, Bean, Beardale, Beaumont, J. M. Bell, Binney, Brown, Ball, Burges, Burns, Carr, Chambers, Chilton, Choate, William Clark, Clowney, Corwin, Coulter, Cramer, Crane, Crockett, Day, Deming, Dickson, Evans, Edward Everett, Horace Everett, Fillmore, Foot, William K. Fuller, Fulton, Gillet, Grennell, Joseph Hall, Hiland Hall, Hamer, Hard, Hardin, James Harper, Harrison, Hathaway, Hazeltine, Heath, Henderson, Jabez W. Huntington, A. Huntington, Jarvis, Benjamin Jones, Lane, Lansing, Laporte, Lay, Leavitt, Love, Lytle, Abijah Mann, J. K. Mann, Moses Mason, McCarty, McComas, McIntire, McKennan, McLene, McVean, Mercer, Miller, Milligan, H. Mitchell, Osgeod, Page, Parks, Parker, Patterson, D. J. Pearce, Franklin Pierce, Pierson, Potts, Ramsay, Reed, Schenck, Shinn, Smith, Spangler, Stewart, Sutherland, William Taylor, P. Thomas, Turner, Turrill, Treedy, Vance, Vanderpoel, Wagener, Ward, Wardwell, Watmough, Webster, Whallon, E. D. White, Frederick Whittleseyli, Eaha Whittlesey, Wilson, Young—115.

So the House refused to consider the resolution.

TUESDAY, March 4.

Removal of the Deposits—Report of the Committee of Ways and Means.

Mr. POLK, from the Committee of Ways and Means, to which had been referred the letter

of the Secretary of the Treasury, giving his reasons for withdrawing the public deposits from the Bank of the United States; the memorial of the bank, and various other papers on the same general subject, made a report; he moved that it be printed, and its consideration be postponed to to-morrow week.

Mr. CLAY called for the reading of the report.

Mr. McDUFFIE objected.

The CHAIR decided that it was the right of a member to have any paper read when first presented to the House.

Mr. CLAY said that he wished the reading, because he meant to follow it by a motion for printing an extra number of copies of the report.

Mr. HARDIN said he would vote for the extra number without the reading.

The CHAIR stated the grounds on which he had decided that the reading was of right, when called for by a member of the House. He said that the member from Alabama (Mr. CLAY) had a right to have the report read before he could be required to vote, and that it was not in order to move to dispense with the reading, nor in the power of the majority of the House so to direct, if persisted in by any member of the House. The rule which declares that, when the reading of a paper is called for, and the same is objected to, that the House shall determine by a vote whether it is to be read or not, does not apply to the case of a paper first presented for the consideration and action of the House. That rule was adopted, no doubt, in consequence of its having been supposed that this right of a member to have a paper read for information, extended to all papers which were on the table, or in the possession of the House, and on which the House might have passed. To guard against the delay and inconvenience which would have arisen from the exercise of such a right, the forty-second rule was adopted.

That rule, however, is only applicable, in the opinion of the Chair, to papers upon the table, or in possession of the House, and does not apply to papers first presented to the House, and on which its action is to be had. When any paper is thus presented for the first time, in the business and proceedings of the House, any member has a right to have it read through once at the table before he can be compelled to give any opinion or vote in relation to it; but, having been once read, it is, like every other paper that belongs to the House, to be moved to be read, if again desired; and, if objection be made, the sense of the House is to be taken by the Chair. This is an important right to each individual member, one of the few that can be exercised by him against the opinion of the House, and which no majority can, as the law now is, deprive him of. It has been so regarded, and held sacred, by the individual who fills the Chair, and he has been sustained by the practice and decision of the House. In 1802 the question was first raised, in relation to

a communication from the then Secretary of War: a motion having been made to dispense with the reading of it, was decided, by Mr. Speaker Macon, to be out of order, (no doubt for the reasons now stated, though that does not appear,) and approved by a vote of more than four to one. A difference of opinion had probably arisen on the subject, the Speaker said, in consequence of the rules as laid down in the Manual. The authority of Hatzel, which Mr. Jefferson referred to as justifying the rule, had been entirely misapprehended. The practice of the House of Commons certainly, since the time of Mr. Onslow, was in accordance with the decision now made, and the right in question he had ever regarded as one highly important to each individual member of this House.

The report must therefore be read, if desired by the member from Alabama.

The House acquiesced in the decision of the Speaker, and the paper was read.

The reading of the report was then commenced, and had proceeded some time, when

Mr. CLAY, stating it to be his understanding that no objection would be made to the printing of an extra number of the report, withdrew his call for the reading; and it was thereupon suspended; but, at the request of a member, the resolutions with which the report closed were read, as follows:

1. *Resolved*, That the Bank of the United States ought not to be rechartered.

2. *Resolved*, That the public deposits ought not to be restored to the Bank of the United States.

3. *Resolved*, That the State banks ought to be continued as the places of deposit of the public money, and that it is expedient for Congress to make further provision by law, prescribing the mode of selection, the securities to be taken, and the manner and terms on which they are to be employed.

4. *Resolved*, That, for the purpose of ascertaining, as far as practicable, the cause of the commercial embarrassment and distress complained of by numerous citizens of the United States, in sundry memorials which have been presented to Congress at the present session, and of inquiring whether the charter of the Bank of the United States has been violated; and, also, what corruptions and abuses have existed in its management; whether it has used its corporate power or money to control the press to interfere in politics, or influence elections; and whether it has had any agency, through its management or money, in producing the existing pressure; a select committee be appointed to inspect the books and examine into the proceedings of the said bank, who shall report whether the provisions of the charter have been violated or not; and, also, what abuses, corruptions, or mal-practices have existed in the management of said bank; and that the said committee be authorized to send for persons and papers, and to summon and examine witnesses, on oath, and to examine into the affairs of the said bank and branches; and they are further authorized to visit the principal bank, or any of its branches, for the purpose of inspecting the books, correspondence, accounts, and other papers

connected with its management or business; and that the said committee be required to report the result of such investigation, together with the evidence they may take, at as early a day as practicable.

The question was put on the postponement and carried; and the report was ordered to be printed.

Mr. BINNEY presented to the House a report from the minority of the Committee of Ways and Means on the same subject, and moved that it receive the same destination with the last paper; which was agreed to.

Mr. CLAY moved that 10,000 extra copies of both reports be printed.

Mr. HALL, of Maine, moved 15,000; which number was agreed to.

WEDNESDAY, March 5.

LEVI LINCOLN, member elect from Massachusetts, coming to fill the vacancy caused by the resignation of JOHN DAVIS, appeared, was sworn, and took his seat.

SATURDAY, March 15.

Purchase of Books for Members.

Mr. SPEIGHT moved the suspension of the rule, in order to take up a joint resolution relative to the purchase of certain books. Agreed to.

The House proceeded to consider a joint resolution for the purchase of certain books, the question being on an amendment reported from a Committee of the Whole, for the purchase of additional copies of Gales & Seaton's Debates.

Mr. FOSTER said that when the subject was up formerly, he stated that he would endeavor to cause our constituents to be informed of the amount of money which we appropriated to ourselves. He wished to have a law providing what books we should purchase, and stating what sums we should appropriate for them. He was willing to buy Gales & Seaton's nine volumes, and Elliot's book, and Gibbon's Decline and Fall of the Roman Empire, and Hume's England, and Kent's Commentaries, &c., pay for them out of a certain and limited contingent fund, as far as it goes, and paying the balance out of our own pay. Some one once asked whether members who opposed these appropriations received the books. He replied to the question that he did receive them. But if the House would leave the money in the Treasury instead of appropriating it to the contingent fund, he would suffer the books to remain on the printer's shelves. He then moved that the resolution be recommitted to the Committee on the Library, with instructions to inquire and report what books ought to be purchased, and the amount which they will cost.

Mr. ADAMS had no objection to the object of the inquiry, but he wished to have a bill, instead of a joint resolution, reported. He conceived that the resolution, as it stood, was un-

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constitutional. His objection was not to the object but to the form of the proceeding.

Mr. FOSTER said that, as the members would not, he hoped, be unwilling to record their names upon a question whether the people should be informed of the amount of money which we appropriate to ourselves, he asked the yeas and nays on the question.

The House refused to order the yeas and nays, twenty-four only rising in the affirmative.

Mr. FOSTER's motion to recommit was rejected, thirty-seven voting in the affirmative.

Mr. FOSTER said he was only sorry that the thirty-seven members had not voted for the call of the yeas and nays.

The amendment of the Committee of the Whole was concurred in.

Mr. SPEIGHT then offered his amendment.

Mr. J. Q. ADAMS opposed the amendment and resolution. The constitution, he said, declared that no money should be drawn from the treasury but in consequence of an appropriation by law. Nothing could become a law but that which was introduced in the form of a bill. Every bill, before it shall become a law, must be presented to the President of the United States for his approval and signature. This, said Mr. A., is the first instance of an attempt to appropriate money by joint resolution. There was not a single instance of the kind on the statute books. If the resolution passed, he hoped the appropriation would be stricken out.

Mr. SPEIGHT would ask if the gentleman means to say that no appropriations have ever been made by resolution. He would refer the gentleman to a resolution which he himself introduced, at the commencement of the session, for the purchase of the bank book.

Mr. ADAMS: There was no appropriation in that.

Mr. SPEIGHT subscribed to the doctrine of the gentleman, that no money can be appropriated except by law. What is law? The expression of the will of the Legislature, in joint resolution, was an expression of that will, and had all the sanction of law. He was surprised to hear the gentleman assert that no appropriations had ever been made by joint resolution; appropriations had been often made indirectly, and he believed directly, by resolution; and he could point out to the gentleman a joint resolution of this kind, which he himself sanctioned during his administration.

Mr. ADAMS: I would be glad if the gentleman would show it.

Mr. SPEIGHT had but one motive in offering his amendment; it was to put the new members on the footing with the old members, in respect to being furnished with books. He proposed to furnish the new members with the nine volumes of the Register of Debates, and the old members with the last volume. He also stated, upon the authority of a letter from Messrs. Gales & Seaton, that this work must be discontinued, for want of patronage, unless

the patronage of Congress should be continued to it. In conclusion, Mr. S. said, that unless we got books for the new members, he should propose that the old members should bring all the books which they have heretofore received, put them down in a pile, and divide them among all the members.

Mr. FOSTER: I will join you in that, sir.

Mr. McDUFFIE suggested that if "appropriated" was stricken out of the joint resolution, it might obviate the objection of the honorable member from Massachusetts.

Mr. SPEIGHT's amendment was read as follows: strike out after resolved, and insert "that the members of the present Congress, who have not heretofore received them, be supplied by the Clerk with the same books that have been ordered to be furnished to the members of the last Congress; together with complete sets of the Register of Debates, to the 9th volume inclusive, and that such members of the last Congress as have received parts of the Debates be also furnished with volumes necessary to complete their sets to the 9th volume inclusive; and that the expense be paid out of the contingent fund."

Mr. POLK, for one, could not vote for the amendment, because, if he did, he would thereby be abandoning the great principle for which he had always contended, viz.: that the House had no right to use their contingent fund for such purposes, or cause any books to be ordered or paid for except by a law or by joint resolution. He would state that he was not opposed, but, on the contrary, was willing to vote that the new members should receive such books as had been voted to the members of the last Congress; but he could not give the former members any addition to what they had already obtained.

Mr. SPEIGHT said that he coincided in the opinion avowed by the honorable member from Tennessee as to the principle about the contingent fund; but, under the circumstances, he considered that it was only an act of justice that the new members should be placed on a similar footing with the old; and as the Senate did not choose to come to the House for a joint resolution for the purchase of such books as they desired, he would not go to them.

Mr. PARKER was opposed to the amendment. He thought at the time that the House had receded from their disagreement to the Senate's amendment to the House appropriation bill, there was an understanding that, thenceforth, all future purchases of books should be provided for by bills for that purpose, or by a joint resolution of both Houses.

Mr. BARRINGER rose to set the member from New Jersey right upon this. He had certainly not supposed there was any such understanding. The Senate, so far from having it, had, by their acts soon after, completely negatived the idea that there was any understanding of the kind; for they had supplied themselves with books without regarding the disposition of the House

on the subject. The resolution, as amended, therefore, only authorized that to be done by the House which the Senate had already done for themselves.

Mr. JARVIS called for the reading of the clause in the House appropriation bill specifying the items for which the contingent fund was to be applied.

The clause was read, viz.: "granting \$150,000 for printing, stationery, &c., to be applied for no other purpose." After which,

Mr. PINCKNEY said, although he differed in opinion with the member from North Carolina, (Mr. SPEIGHT,) that a law and joint resolutions were similar, yet it was perfectly immaterial to him by which mode the House should make the appropriation; for his objection was to the principle, that they could appropriate for the purchase of books at all. He considered this an appropriation of the people's money for the private use of the members; as such it was unconstitutional, and for which, if they were justified in appropriating, they might just as well appropriate for their private uses all the funds in the treasury. He had another objection to this. The House were called on to vote in the dark, without knowing the amount of the people's money which they were thus going to dispose of. They did not know—they refused even to inquire whether the cost of these books would be \$8,000 or \$80,000; and, if he was correctly informed, the amount would be the latter. He desired to call the attention of the people to the question whether the House had the right to do this; and he might, at the same time, inquire if he had not the right to avail himself of that order, although he would not make the objection, that members should not vote in cases in which they were interested? He moved to postpone the resolution indefinitely, and called for the yeas and nays on his motion; which, having been ordered,

Mr. McDUFFIE said he felt bound by some feelings of paternity to say something in vindication of the resolution. He could not agree with his colleague (Mr. P.) that this resolution made an appropriation for the private uses of the members, or that it was unconstitutional for the House to vote upon questions that they were interested in. He would like to know, if the principle held good, by what right they voted their pay? Voting for the appropriation of \$150,000 for their contingent fund to pay for stationery, pens, knives, &c., might be termed voting for their private uses, on the same principle. He maintained that these books were all-important to the members, on public grounds, to give them information that would the better enable them to discharge their public duties. He believed that the works could not be proceeded with without the aid of Congress, and, in voting for the works, it was on public grounds he had done so; having so received them, he never should take them home, intending to leave them here where they could be of equal advantage to his successors as they had been to himself,

and he could have desired that there was such an obligation inserted when the resolution was originally introduced, or even now, that all books should be left in the library for the benefit and use of their successors in Congress. In order to obviate the objection of the member from Tennessee, (Mr. POLK,) he must request the mover of the amendment (Mr. SPEIGHT) to modify his resolution so as to have it by joint resolution, and to strike out the part terming it "appropriate," which would also obviate the objections of the member from Massachusetts, (Mr. ADAMS.)

Mr. SPEIGHT declined making any alteration, in consequence of the conduct pursued on this subject by the other branch of the Legislature. It was for the House, if they thought proper, to reject his amendment, and they might then pass a joint resolution, which would be equally satisfactory to him.

Mr. WAYNE inquired if it was not intended to confine the action of the resolution to the House only?

Mr. SPEIGHT replied, such was his intention. The resolution having been read, it was so modified, by inserting "House of Representatives."

Mr. J. Q. ADAMS considered the proposition of Mr. McDUFFIE the most advisable course to be taken.

The question on the amendment, as modified by Mr. SPEIGHT, was then put, and agreed to.

The question then being on the motion of Mr. PINCKNEY, to postpone indefinitely:

Mr. POLK expressed his deep regret that the House were about to abandon a principle for which they had contended, and to decide that they had the right to use their contingent fund as they thought proper. He had no objection to the purchase of any books that should be deemed necessary. All that he desired was, that the purchase should be made in pursuance of a specific and direct law; not by applying indirectly to attain the object by means of the contingent fund, which he maintained it was unconstitutional to use for such purposes. The consequence of all this must be, that the contingent fund would be exhausted, and would not be sufficient to defray their ordinary expenses. He considered the whole difficulty would have been obviated if the member from North Carolina (Mr. SPEIGHT) had consented to the proposition to make it a joint resolution.

Mr. WAYNE said he should have preferred having the books procured by a joint resolution of both Houses for that purpose, but if they were not to be procured in that way, he would vote for the amendment to obtain them. He considered that this was not a proposition to purchase books for the private uses of the members, or for the purchase of books of an ordinary character. No, it was the purchase of what had been done under the permission, if not under the authority, of Congress, and which was more illustrative of their past proceedings, more necessary to assist members in

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the discharge of their public duties, than any other work that could be obtained. He considered that as all reports of their proceedings; that reporters were permitted into the House for that purpose by their authority, the registers of debates on subjects that came up, although not in the form of a record, were substantially a part of their proceedings, and which were highly valuable, as well for the present use of the members, as for reference hereafter, to explain to posterity what could not otherwise be explained, the grounds upon which on all important subjects they were induced to act. The question had come to this, that, if they did not supply themselves with the works in their separate capacity, it appeared they could not have them at all; for the Senate had declared that the House had no right to interfere with them in the use of their contingent fund to make such purchases as they thought proper; the constitutional principle of touching it for the purchase of books was rejected.

Mr. BROWN said, it was with some reluctance he rose to address the House; but, as he should feel himself compelled to vote against the resolution in its present form, he desired to state his reasons, that he might not be misunderstood. It must be manifest to all who had listened to this discussion, or looked into the previous action of Congress upon this subject, that a limit must sooner or later be put upon the practice heretofore pursued of furnishing members with books at the public expense. When this resolution was first introduced, he did not suppose it was intended to do more than to place the new members, as to books, upon a footing of equality with the old; and, if he was not mistaken, it not only did this, but also proposed to grant to all the members, indiscriminately, books not embraced in the resolutions of last Congress. He was willing that as much should be done for the new members in this respect as had been done for the old, and he could at the same time unite his regrets with honorable gentlemen, that the practice had not, from its commencement, been confined exclusively to providing books for the use of members only during the time they remained in office. He begged the House to look at the practice as applied to individuals—himself for instance. Long before the works contemplated in the resolution could be published, his time of office would expire, and the chances were as ten to one at least, that he never would come back again; indeed, he was not yet prepared to say he wished to come back; the books would then become his own property; and his successor, whoever he might be, could not derive the slightest benefit from any information they contained. He was opposed to the resolution in its present shape upon another ground. Upon a previous occasion, when one of the appropriation bills was under consideration, the House disagreed with the Senate, and he twice voted (and he believed rightly) to set a limit upon the power of both Houses over the con-

tingent fund, to prevent its application to the purposes mentioned in this resolution. He would not now reverse these votes, nor would he, under the name of the contingent expenses of Congress, make appropriations for the purchase of books, but would prefer that they should be made the subjects of a specific appropriation.

Mr. McDUFFIE rose for the purpose of obviating what he considered the only objection that could be to the resolution, and which it was in their power to do, to make the books public instead of private property, for which purpose he moved the following amendment, viz.: "the sixth, seventh, eighth, and ninth volumes of the Register of Debates to be deposited in the Library, when the present members retire, for the use of their successors."

Mr. VANDERPOEL inquired if such an amendment was in order when there was a motion to postpone?

The SPEAKER replied in the affirmative, and that the amendment had precedence of the motion to postpone.

Mr. VINTON objected to the new principle proposed by the amendment submitted by Mr. McDUFFIE, which he said would go to establish that each representative had no occasion for the information contained in these or other books that Congress had usually voted, except at the seat of Government. He considered that every member paid fully to his constituents a remuneration for the value of the books, by answering the calls made upon them, in their representative capacity, for information.

Mr. WISE spoke in favor of the resolution, and urged the claims of the new members to be put on the same footing with the old members. But, even if it were an original question, he would vote for the purchase of such books as would tend to enlighten him in regard to the history of the legislation of this House. We, sir, said he, are, at home, the oracles of our respective neighborhoods. To us the people look for information in regard to the business of this House. As a new member, he expected to acquire more knowledge, preparatory to the discharge of his duties here, during the recess than he could acquire during the session, and he wished to carry with him such documents as were necessary to his instruction.

The question was taken on the amendment, proposed by Mr. McDUFFIE, and rejected.

Mr. MANN, of New York, believed that the measure proposed was wrong in principle, and in practice. Congress could not properly become the great patron of publishers. Is it true that this is the work on which the Clerk of this House gave his acceptances, and must we now redeem those acceptances? He trusted not. If the work could not be supported by the patronage of the public, there was no way to prevent it from going down. He acknowledged that it was an important work, and should be very sorry to see it discontinued. But he would not consent, though one of the

members for whose benefit the resolution was introduced, to pay the public money for our own private benefit. The member from Virginia might be assured that, however it was in Virginia, there were no oracles in New York.

Mr. POLK said he would show the House to what extent this system of pensioning publishers on our contingent fund had been carried in another branch of Congress. He held in his hand a statement from the Secretary of the Senate, showing that, during the last year, that body voted for the purchase of Gales & Seaton's Debates, \$1,940, and for Duff Green's Compilation of the Land Laws, &c., (1,600 copies,) over \$46,000, and other sums for other works. He questioned whether any member of the Senate looked at the amount of this expenditure at the time when it was made. The same was the case with this House. He wished the House to understand what they were doing, and what they were likely to do. We had before us an example of the Senate for the purchasing of 1,600 copies of a work, at the expense of \$46,000, to be paid out of a contingent fund of \$36,000.

Mr. LANE said, if the object of gentlemen who had occupied the floor for the last hour in opposition to the resolution, had been to convince members of the inexpediency of its adoption, he could only say, so far as it regarded himself, they had been truly unfortunate. So far from having heard any thing to change, his first impressions had been confirmed, that no one had contributed more largely in producing that result than his honorable friend from Tennessee, (Mr. POLK.)

We are told by that gentleman that the Senate have, by a similar resolution, appropriated upwards of \$40,000 in purchasing books for that body.

This fact, so far from proving the dangerous tendency of the resolution for which it has been thrown into the debate, was conclusive to his mind of not only the propriety of its adoption, but of its necessity.

If the Senate, of whose integrity and intelligence he entertained the most exalted opinion, composed of forty-eight members, had found it necessary for a full and faithful discharge of their duties, to expend that sum, how much greater the necessity, and with how much more propriety may this House, composed of two hundred and forty members, appropriate from the same fund, for a similar purpose, the sum of \$4,000 contemplated by the resolution.

The question on postponing the resolution indefinitely was decided in the negative—Yeas 80, nays 115.

Mr. CHILTON called for the yeas and nays on the question of agreeing to the resolution as amended by Mr. SPRIGHT.

The House refused to order them, and the resolution, as amended, was agreed to.

WEDNESDAY, March 26.

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The House proceeded to the consideration of the resolutions reported from the Committee of Ways and Means, together with the amendment submitted by Mr. WILDE, declaring that the reasons of the Secretary of the Treasury for the removal of the deposits are unsatisfactory and insufficient.

Mr. SCHLEY, of Georgia, said: Sir, a sort of factitious importance, has been given to the whole subject now under consideration, by which it has been magnified to a size more than ten times greater than its natural dimensions, which is intended and calculated to have an effect upon the great body of the people, who have not the means of knowing the truth of the matter, unless this effect can be counteracted by presenting the facts fairly before the public. And it is for this reason that I propose to give my views to my constituents.

And why has all this been done? It is because the opponents of the administration believe that the Bank of the United States, by the power of its money, has a hold on the people; and that this power, being made to operate on them, whilst the bank itself is held up here by its friends as "a bleeding sacrifice," will have the effect to bring to the allies now forming the opposition an accession of strength sufficient to recharter the bank, and pull down the powers that be, in order to raise to their places certain persons who, notwithstanding the high character they have acquired among their fellow-citizens for talents, can never be satisfied whilst Andrew Jackson and his principles stand pre-eminent in the affections of a grateful people. These gentlemen exclaim, with Haman, "Yet all this availeth us nothing, so long as we see Mordecai, the Jew, sitting in the King's gate." So long as they see Andrew Jackson in favor with the people, all the honors that can be heaped on them avail nothing to satisfy their inordinate ambition.

My honorable colleague, (Mr. WILDE,) who opened this debate, says "that certain administration orators attribute the distress to the bank speeches;" and asks, "Why the administration speeches cannot allay it?" This question is very easily answered. Although it has been said that the President has seized upon the public treasure, and holds it at his own disposal, yet his friends can get none of it to pay for the printing of speeches. Those which they distribute they have to pay for out of their own pockets. But not so with the friends of the bank. Their speeches are printed at the expense of the bank, and furnished gratis to those who will distribute them. I have been informed, and have no reason to doubt the fact, that more than one hundred thousand copies of a speech delivered by an honorable gentleman (Mr. BINNEY) on this floor, have been printed at the expense of the bank, and that more than a hundred reams of paper of the United States

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have been used to envelop them for exportation, besides some fifty thousand each of several other speeches which have been delivered during this session within the walls of this Capitol; and, in addition to these, a similar quantity of the report of the Committee on Finance in the Senate—the whole cost of which cannot be less than from fifteen to twenty thousand dollars.

If this question could have been permitted to be settled upon its own merits, apart from all extraneous influence and party considerations—if gentlemen had been satisfied to examine and determine the question involved in this debate with that calm deliberation and unbiased judgment suited to the character of legislators, uninfluenced by any other considerations than the honor of their country and the interests of the people, I should have been content to listen to the voice of reason, and to have received instruction from the lips of wisdom and experience. But this was not permitted; and when the whole course of the opposition has been to present the subject to the people in a very different light from that in which I think it ought to be viewed, for the purpose of casting odium on the Chief Magistrate of the Union, and gaining proselytes to the cause of the bank, in order to insure a recharter, I should consider that I was wanting in the duty I owe to myself and my constituents, if I were not to raise my voice, feeble as it may be, against such a course.

A distinguished and talented leader of the opposition (Mr. CLAY) has said that "we are in the midst of a revolution, tending to the concentration of all power in the hands of one man;" that "the premonitory symptoms of despotism are upon us, and if Congress do not apply an instantaneous and effective remedy, the fatal collapse will soon come on, and we shall die, ignobly die, base, mean, and abject slaves, the scorn and contempt of mankind, unpitied, unwept, unmourned." And another distinguished leader (Mr. BRANNEY) has declared that "the spirit of party is a more deadly foe to free institutions than the spirit of despotism." Sir, these are well-constructed sentences, and finely-rounded periods, well calculated to catch the popular ear, and for a moment to inflame the passions; but all sounds do not convey sense or truth.

But, sir, we are in the midst of a revolution; not, however, tending to the concentration of all power in the hands of one man, but tending to wrest from an interested majority in Congress, made up of various minority interests, powers which they have assumed, and which have never been granted them by the people. No one of these interests could at any time have obtained the sanction and protection of a majority of this nation. But when those whose interest it was to obtain money from the Government, for the purpose of constructing internal improvements in their particular section of the country, were told by the manufacturers that, by joining them in laying on a high protective tariff, a large surplus revenue beyond

the ordinary wants of the Government would be brought into the Treasury, and that this surplus could be, with their aid, appropriated to the purposes of internal improvement, a joint stock company was formed, into which it was agreed to receive, as a partner, the Bank of the United States, in order to furnish facilities to carry on the business of the firm. Thus these three interests, neither of which could stand alone, formed, when combined, a powerful phalanx, which nothing could withstand, except the firmness and integrity of the Executive in the exercise of the veto power. And it is for the fearless exercise of this conservative principle in the constitution, in arresting and putting down these unwarrantable assumptions of power, that the President has been so much condemned and abused by those whose interests or ambition have been checked and arrested.

I propose now, Mr. Speaker, to enter upon the discussion of the subject of the removal of the deposits from the Bank of the United States, and shall consider it in the following order:

1. The power of the President and Secretary, under the constitution and laws, to remove the deposits, &c.

2. The expediency and propriety of the act of removal, with reference to the republican institutions of our country, and the general interests of the people.

[Here Mr. S. entered into a close, legal, and constitutional argument in support of his first proposition; and having established it, to his own satisfaction at least, as he expressed himself, that the Executive branch of the Government had full power to make the removal of the deposits, he proceeded to the second branch.]

2d. The propriety and expediency of the removal of the public moneys from the Bank of the United States, in reference to the republican institutions of our country, and the general interests of the people.

Between whom, sir, is the present issue made up? The friends of the bank tell us that it is between the President on the one side, and the Congress on the other. They endeavor to keep the bank out of view; and if they were here in the character of mere advocates, they would be right to keep it out of view. But, standing as they do on this floor—the representatives of the people—they should examine this question in reference to their interests, regardless of every other consideration; and in that character I feel it my duty to let the people understand the real issue now pending before us, which is between the Bank of the United States and the people of the United States.

Who, or what, is the bank? It is a body without a soul. A body created by the people of the United States, through their representatives here. Whether these representatives had a constitutional right to create this body, is a

question which I shall consider in its proper place. And shall it be permitted that the creature shall rise and make war against its creator?

For what purpose was this body created? Was it for the benefit of the individual stockholders, or for the purpose of carrying on the fiscal operations of the Government? I presume no friend of the bank will be so unwise as to contend that it was created for the benefit of the individual stockholders; because, with such an admission, they would be without even a semblance of constitutional authority to support them. They would not have a hook upon which to hang an argument in its support.

It was then created as a great machine, "necessary and proper," in the opinion of those who made it, to carry into effect some, or all, of the delegated powers in the constitution. Well, sir, we will take it on this ground, for the sake of the argument, and I am sure that the friends of the bank will not dare to put it on any other, and how does the case stand? Let us inquire.

Here is a corporate body, a fiscal machine, created by the Government to answer certain purposes of state policy, about to expire, and the President of the United States, in his annual Message to Congress, deems it his duty, under the constitution, to bring the subject of a renewal of the charter to the consideration of that body, and to express his doubts in regard to the power of Congress to create such a corporation. And what course does the bank then immediately pursue?

It commences and keeps up a violent, systematic, and extended attack upon the President of the United States. It uses eighty or a hundred thousand dollars of the funds of the corporation, one-fifth of which belongs to the people of the United States, to corrupt certain presses, and hire them to abuse and slander the Chief Magistrate of the nation for the exercise of a constitutional right. It at once makes up an issue between itself and the President, and submits it to the people of the United States with the hope that, by the aid of its money, it could procure a verdict in its favor; at the same time, extending its accommodations to the amount of twenty-eight millions of dollars more than at any former period. Millions of copies of this issue, with the argument on the side of the bank, were printed and paid for out of the funds of the bank, and, in some form or other, furnished to every man in the United States whose name and residence could be ascertained. I, myself, received several of these papers directed to me, from I know not where. These papers were sent throughout the land from Maine to Louisiana, and from the Atlantic Ocean to the Rocky Mountains.

And why was all this done? The bank tells us it was done in self-defence and to enlighten the people. How very kind and benevolent! This body must differ from other corporate bodies. It must have a soul, or it could not

feel intensely for the poor, ignorant, and benighted people of the land, and be willing to expend so much of its money for the purposes of charity.

Well, sir; the issue was made up and submitted to the great body of the people of the United States, and they have rendered their verdict against the bank, by electing General Jackson to the office he now holds, by an overwhelming majority, and by the election to this House of a large majority opposed to the bank.

But when we plead this matter, this verdict, the friends of the bank deny the fact; and it is good policy for them to do so, because if it be admitted, it amounts to an estoppel. It settles the whole question.

And, sir, has it come to this, that the constituted authorities of the country cannot—dare not deliberate or act in reference to a matter of great national policy, without subjecting themselves to the abuse and vituperation of an institution created by them? Shall the bank be permitted to array itself against any department of the Government, and harangue the people with a view to give directions to their choice of rulers? Shall this institution be permitted to use the money of the United States to subsidize the press and array hireling editors against the Chief Executive officer for the discharge of a duty devolved on him by the constitution? And can men be found in this republic, in this House, who will tolerate such conduct, and even advocate it?

Sir, such conduct on the part of the bank is sufficient to alarm every friend of our free institutions, and of unbiased suffrage. And what may not such a power as the bank, with such a disposition, effect, towards the destruction of our free Government, with such a capital, if you give it twenty years more to live and gain strength, and the funds of the Government to use!

The attitude, then, in which we now stand is this: The Bank of the United States against the people of the United States; and we must choose which we will serve. As for me and my house, we will serve the people. In reference, then, to the safety of our free institutions, I view the Bank of the United States as a powerful and dangerous engine, which has been, may be, and will be used to batter down the walls and ramparts of this glorious republic.

I have endeavored to show that the real issue is between the bank and the people. It is a struggle for existence and power on the part of the bank, and for freedom on the part of the people; and so far the people have prevailed. But if, in the present contest, which is, bank or no bank, the bank, by the operation of her screws and pulleys, should finally prevail, we will be a poor paper-ridden, and bank-serving people, with the name and form of liberty, but without the substance. The commercial operations of your country will be regulated by this power. The manufacturing interests will be subservient to it. The value of our property, real and personal, will depend on the will and caprice of

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this corporation, which, by extending or curtailing its issues and accommodations, can, *ad libitum*, raise or lower the price of all property. And, what is of more consequence than all these, the Government will be controlled by it; the President or some other dignitary will be made by it; the Congress will be ruled by it; and the people will be slaves to it.

It is somewhat amusing to look back to the years 1791, 1811, 1815, and 1832, when the questions of charter and recharter were severally under consideration in Congress, and to observe the various changes of opinion which have taken place in the minds of some of the leading and talented politicians of the day.

In 1791, Mr. Madison was opposed to the charter of the old Bank of the United States, because he believed that Congress had no power, according to the constitution, to grant charters of incorporation; and the argument he then offered in support of his opinion, was a plain, strong, common-sense view of the subject, which, to my mind, has never been satisfactorily answered, and is unanswerable. And yet, when President of the United States, in 1816, he signed the charter of the present bank, not because he had changed his opinion upon the constitutional question, but upon the ground of precedent; adopting the legal maxim, *stare decisis*, and viewing a legislator as standing in the same situation as a judge. With all due deference for the learning and talents of Mr. Madison, I must be permitted to regret that he should have taken such an erroneous view of the subject. I am at a loss to conceive how so great a man could have fallen into such a glaring error as to suppose for a moment that there is any, the slightest analogy between the duties, powers, and responsibilities of these two stations. The maxim of a legislator should be *malus usus abolendus est*, whilst those of a judge are *ita lex scripta est*, and *stare decisis*. A legislator is deputed by his constituents to make laws, such as in his judgment will conduce to the well-being of society, under an enlarged view of the whole subject, looking at the same time to the probable consequences of the act. He is to act upon the dictates of his own judgment and conscience, bound by no precedent, and circumscribed by no rule, except the constitution of his country and the welfare of the commonwealth. A judge, on the contrary, is appointed to expound the meaning of the law, after it is made by the legislator; and when thus expounded by the supreme judicial power of the Government, such decision must be taken as the true construction of the law by all judges, unless manifestly wrong, until the Legislature alter it. And although a judge, who shall be afterwards called on to enforce such decision, may believe it to be wrong, his language will be this: "If I were called on for the first time to expound this law, I should give it a different construction; but the Supreme Court have decided the question, and I have no power to alter it. I am bound by that decision, and to

be governed by the maxim *stare decisis*." And why is this the rule of the Judiciary? Because, as long as the law exists, it should have one uniform construction, and not be liable to be changed with every change of judges, or of opinions, so that all may know what it is, and by what tenure they hold their property, their lives, their liberty, or their reputations. A judge, then, from the nature of his office, and the consequences of his decisions, must necessarily be bound by precedents, in order that the law may be uniform and do equal justice to all. But a legislator cannot be, and ought not, by the very nature of his office, to be bound by precedent. It is his duty to make, repeal, amend, modify, or alter laws as the public good may require. In short, it is the province of a legislator to declare what the laws shall be, and of a judge to declare what the law is.

Mr. Madison, in giving his assent to the bank charter in the year 1816, made a compromise with his conscience, which I am unwilling to make with mine; and which Mr. Burwell, of Virginia, in his argument against the renewal of the charter of the United States Bank in 1811, believed that Mr. Madison, then the President of the United States, would not make; for, in that argument, Mr. Burwell stated that "he could not suppose that Mr. Madison would use one set of arguments in 1791, and act upon another now."

Mr. Macon called Mr. Burwell to order for using the name of the President in debate. It seems that Congress, in that day, had some respect for the office of Chief Magistrate of the United States. How is it now? Mr. Burwell said nothing disrespectful of Mr. Madison. On the contrary, he lauded him; and yet, it was considered out of order to mention his name in debate. But now, sir, to call the President a tyrant and usurper, to denounce him as worse than Cæsar, and to charge him with having done an act for which a King of England or of France would lose his head, pass for logical argument and classic wit. Sir, if gentlemen have no respect for the patriot who now fills the executive chair, they should at least have some for the office, for their country, and for themselves.

In the Senate of the United States in 1811, Mr. Clay opposed the recharter of the old Bank of the United States on constitutional grounds, and charged Mr. Crawford with having gone over to the enemy's camp, because he supported the recharter. In 1816 Mr. Clay supported the charter of the present bank, because it was constitutional, and grounds his argument upon the necessity of such an institution in 1816, which, in his opinion, was not necessary in 1811. Thus, then, according to Mr. Clay's arguments, a bank may be unconstitutional to-day, and constitutional to-morrow, just as, in the opinion of Congress, such an institution may or may not be necessary. But the great father and champion of the bank of 1791, Alexander Hamilton, rejects this idea when advanced by

Mr. Jefferson, and treats it as absurd. These are his words: "The expediency of exercising a particular power, at a particular time, must, indeed, depend on circumstances; but the constitutional right of exercising it must be uniform and invariable, the same to-day as to-morrow."

Mr. Crawford always held the bank to be constitutional until after the veto message of 1832, when he too changed his opinion and approved of the veto.

Many other names of eminent statesmen might be added to the list; but these will suffice for my purpose. I do not mention these names and facts for the purpose of charging those gentlemen with inconsistency. No, sir. I have a higher, and a better object in view. I do it for the purpose of showing that, if the power claimed was conferred by the constitution, it is not probable that such men would assert the power to-day, and deny it to-morrow. You would not find Mr. Clay denying the power in 1811, and sustaining his ground by an able argument, and in 1816 claiming the power upon the ground of necessity. You would not hear Mr. Calhoun claim the power to incorporate a bank upon the ground that the constitution vests in Congress the power to regulate the currency, when in point of fact no such word is to be found in that instrument. The only power in regard to this subject vested in Congress by the constitution, is in the following words: "Congress shall have power to coin money; regulate the value thereof, and of foreign coins, and fix the standard of weights and measures." (Eighth section, first article.) This clause is so very clear and explicit that it seems to me impossible for any one to misunderstand it. By the word "money," is meant a metallic medium; a metal that can be "coined." Who ever heard of coining paper? Congress, therefore, have no power to regulate the value of any money, except it be metallic, which may be "coined." With the currency of the country, therefore, made up as it now is of paper, the Congress have nothing to do, and no right to interfere.

Well, sir, the deposits have been removed by the Secretary, and, as I believe, in perfect accordance with the laws and constitution of the country, and with the contract between the Government and the stockholders; and who now has control of them? I answer, Congress—and a control which it had not, and could not have, before the Secretary exercised his power under the charter. The people's money, then, is brought back, by the act of the Secretary, under the control of the representatives of the people, where it always ought to be, and from which it ought never to have been taken, and the question now is, what will you do with it?

But there is another objection to the expediency of a bank, and it does not rest on speculation. It is the power which such a corporation holds over all the interests of the nation, whether commercial, manufacturing, or agricultural. Of this we have abundant evidence

sent here by the bank itself in the shape of petitions and memorials from sundry individuals of all trades and professions, who happen to be located within the influences of the noxious air of the marble palace. That there is some distress in certain parts of the country no man will doubt. Has there ever been a time when there was not some in the large cities? Is it greater now than it has frequently been on former occasions? I believe not. But if it be, the bank has caused it, and then very coolly tells you that Andrew Jackson has produced it by the removal of the deposits. Sir, does Mr. Biddle believe this? Does any man in his sober senses, and who has any competent knowledge of the subject, believe it? I presume not.

I have said that the bank has caused this state of things, and I will now prove it by evidence which I am sure some gentlemen on this floor will not attempt to controvert. Mr. Biddle himself, sir, shall be my witness, and shall tell you how he did this thing. In the year 1828, a sudden and alarming scarcity of money was felt in the large cities, and great distress was the consequence; and that it was owing to the operation of the banks nobody doubted. No other cause could be assigned for it. And Mr. Biddle, the president of the United States Bank, published an essay in the *National Gazette* on the 10th of April, 1828, in which he gave the following elegant and lucid exposition of one of the causes of the evils the community was then suffering. I ask the indulgence and attention of the House whilst I read this essay, because I am sure that they will be both pleased and edified by it.

[Here Mr. S. read the article, the purport of which was to show that the distress was brought on by overtrading, induced by overbanking, and the remedy was to bank less, which would check overtrading; and that the Bank of the United States had applied this remedy, and placed herself in a situation of great strength and repose.]

Here, then, Mr. Speaker, we have the strongest possible evidence of the real cause of the great distress which prevailed in the year 1828. It was caused by the banks, which, by "overbanking," furnished facilities for "overtrading," and then, in order to save themselves, and "place themselves in a situation of great strength and repose," called in their issues, by "obliging their debtors to return the bank notes they lent them, or their equivalents." And in this way, and by this process, the community was pressed and distressed to an alarming degree. Where were the public deposits then? Had they been removed? No. Had the President then usurped the sword and the purse? Oh, no! There was no such miserable, pitiful subterfuge, then to resort to; and hence Mr. Biddle told the plain, naked truth, that the distress was occasioned "by over-trading, brought on by over-banking."

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But we will return to these cries of distress contained in the petitions and memorials for a recharter now on your table. Has there never been any distress in the nation before? We have seen that, in the year 1828, it was very severe; and, if we will go back to 1819, we will see in Niles' Weekly Register of the 10th of April of that year, the following picture: "From all parts of the country, we hear of severe pressure on men in business, a general stagnation of trade, a large reduction in the price of staple articles. Real property is rapidly depreciating in its nominal value, and its rents or profits are exceedingly diminishing. Many highly respectable traders have become bankrupts, and it is agreed that many others must 'go.' The banks are refusing their accustomed accommodations; confidence among merchants is shaken, and three per cent. per month is offered for the discount of promissory notes which, a little while ago, were considered as good as 'old gold,' and whose makers have not since suffered any losses to render their notes less valuable than heretofore." And on the 7th of August, 1819, Mr. Niles says: "It is estimated that there are twenty thousand persons daily seeking work in Philadelphia. In New York, ten thousand able-bodied men are said to be wandering about the streets looking for work, and if we add to them the women who desire something to do, the amount cannot be less than twenty thousand. In Baltimore, there may be about ten thousand persons in unsteady employment or actually suffering, because they cannot get into business. We know several decent men, lately 'good livers,' who now subsist on such victuals as, two years ago, they would not have given to their servants in the kitchen."

In 1820, a director of the United States Bank, writing to a friend in England, uses the following language: "Our difficulties in commerce continue without abatement. A long continuance of distress in the commercial world has had a bad effect on the morality of the country. Men fail in parties for convenience. The vast number of failures takes away the odium, and the barriers of honesty are broken down by a perpetual legislation suited to the condition of insolvent debtors."

What caused the distress at these periods? The deposits had not been removed; there were three millions then in the Bank of the United States. Improvident men and imprudent banks could not then resort to the despicable subterfuge of imputing their misfortunes, or follies, or frauds, to the action of the President or Secretary; and therefore the country was not convulsed to its centre, as it now is.

Mr. Speaker, if the alleged distress does actually exist, and I am willing to admit that in some degree it does, there must be an adequate cause for it. The friends of the bank tell us it was caused by the removal of the deposits. If this be so, I will thank gentlemen to tell

me how it operated. Did this act of the Executive department force the bank to call in so large a proportion of its debts as to create this alleged distress? The bank says no, and gives us a statement in the National Intelligencer of the 8th instant, to show that it had curtailed only about four millions of dollars from the 1st of October to the 1st of March. Could the withdrawal of this amount have produced the effect? Everybody answers no. How, then, could the removal of the deposits have produced the distress? Mr. Webster had said that the removal of twice the sum could not, *per se*, have done it, but that it is owing to the panic and want of confidence which that act has produced. How is it possible that the act of removal could have produced a panic, when it is admitted that it caused no diminution of any consequence in the accommodations of the bank? And if, at the first moment of the act, a fear of bad consequences created this panic, there has been sufficient time to recover from it, when the evidence produced by the bank itself has proved that the removal has not caused it to oppress the community. But it is well known to all that the removal of the deposits did not create this panic immediately, because they were ordered to be removed on the 1st of October, and yet the whole country was quiet until after Congress met, when, for the first time, we heard this cry of panic from these halls, which has since been echoed back. Although the bank may have drawn in only four millions of her debts from the 1st of October to the 1st of March, it must be recollected that she had previously drawn in sixteen and a half millions, which, added to the four millions, make an aggregate of twenty millions and a half in the space of one year and nine months. This sum is sufficient to produce the distress complained of in the commercial community; and, when this is added to the attempts made by the bank and its friends to create a panic, we can be at no loss to account for the alleged distress. But, it is also said that the act of the Executive has caused "a want of confidence." In whom? In what? Not in the bank, for its friends have always said that public confidence is as strong in that as it ever was, and that it is in a state of "great security and repose." Is it loss of confidence between man and man? If so, how could the removal of the deposits have produced this effect? I confess my inability to comprehend how it could have done so.

Mr. Speaker, I'll tell you the secret of this panic and want of confidence. It is the panic which seized the stockholders and friends of the bank, upon the loss of confidence in obtaining a recharter. This panic they have endeavored to spread throughout the nation, in the hope that, under its influence, the people would force their representatives to grant a recharter. Look at the proceedings that have taken place in New York, Philadelphia, and

Baltimore. Can any man doubt the object and the motive, when we look at these?

Sir, the conduct of the bank and its friends on the present occasion is a second edition, considerably enlarged and improved, of the convulsive throes of the old Bank of the United States in the year 1811. The same cries of panic, and dismay, and loss of confidence, were then heard, and the same awful predictions of ruin and distress were sounded to the ears of Congress. But they were all then, as they will be now, ineffectual to obtain a recharter. And did these awful consequences follow? Were these predictions fulfilled? The following facts will answer these questions: "Trustees were appointed, and proceeded so rapidly in winding up the concerns of the bank, that, on the 1st of June, 1813, they paid over to the stockholders seventy per cent. of the capital stock, and eighteen per cent. more on the 1st of October. This was a rapid collection of the debts due to the institution, inasmuch as it enabled the trustees to pay eighty-eight per cent. of the capital stock in about a year and a half; but it did not produce the universal ruin with which the country had been threatened." (Gouge on Banking, 2d part, page 41.) "Many persons," said Doctor Seybert, writing in 1816, (Statistics, page 522,) "viewed a dissolution of the late Bank of the United States as a national calamity; it was asserted that a general bankruptcy must follow that event. The fact was otherwise; every branch of industry continued uninterrupted—no failures in the mercantile community were attributed to that occurrence."

I have no fears that the dissolution of the present bank will produce the disastrous consequences now predicted. It cannot, *per se*, do so; and if distress and embarrassment should follow it, it will be owing to the criminal conduct of those who manage it, for the purpose of compelling the community to grant a recharter.

Mr. Speaker, I have now closed my argument upon the main subject of the debate; and will conclude by making a few remarks upon the approbrious epithets which have been so courteously heaped upon the President and the Secretary of the Treasury.

The President has been denounced here and elsewhere as a tyrant and usurper, for having seized the sword and the purse, and for having done an act which, in England or France, would have brought the head of the King to the block.

Mr. Speaker, is Andrew Jackson a tyrant? Are we slaves crawling to the footstool of power? Is not the fact that gentlemen can stand on this floor, and, unawed, make these assertions, the strongest evidence that we are free, and that these extravagant denunciations are more the effect of an over-heated imagination, than of the temperate exercise of right reason? Did Andrew Jackson act the tyrant

at New Orleans, when, in the midst of an armed soldiery, fresh from the spoils of victory, a thousand swords would have leaped from their scabbards to defend him at his bare nod, he submitted to a sentence from a civil tribunal, imposing on him a heavy fine for doing an act which, though unlawful, saved his country from the unhallowed tread of a foreign foe? What was his language and conduct on that occasion? The judge was intimidated at the sight of the army, and was afraid to pass the sentence. General Jackson perceiving this, called to him in this language: "Pass your sentence, sir; you shall not be molested. The same arm which has saved your city from an invading foe, will protect the civil magistrate in the discharge of his duty." The sentence was pronounced, and the general paid it; and, in the face of these facts, this man is called a tyrant. Comment is unnecessary.

Sir, Andrew Jackson stands in no need of a vindicator or apologist here. His acts speak for themselves. His deeds of glory are recorded on the pages of his country's history. His virtues are embalmed in the affections of a grateful people, and his name and fame will descend to posterity engraven on pillars more durable than brass or marble.

One word, sir, as regards the Secretary. He has been denounced here as a sycophant and tool, and virtually called a liar. Why is he called a sycophant? Is it because he accepted the office from which Mr. Duane was removed? Sir, Mr. Taney could not have refused this office with justice to the President and honor to himself. At a time when he believed that Mr. Duane would comply with the wishes of the President, he had given an opinion in favor of the removal of the deposits, without the slightest wish or expectation of holding his present office. But Mr. Duane refused, and was therefore removed. The President, then, requested Mr. Taney to take the office, and act in accordance with his previously expressed opinion. Could he, under such circumstances, have refused? Could any honorable man have refused? I think not.

Personally, sir, I know very little of Mr. Taney. I never saw him until this session. But I have long known his character for virtue and talents by the report of one very nearly allied to me by the ties of consanguinity, who has known him long and intimately, who admires him for his virtues, and feels grateful to him for his kindness.

Sir, Mr. Taney is a man of the most delicate sense of honor—of high qualifications for usefulness—of the purest patriotism—the soundest morals, and the keenest sensibility, benevolence, and philanthropy. And can this man be a tool, a sycophant? No, never.

Sir, the bank may draw her bow and discharge her arrows at the President and the Secretary. It will be labor in vain. These arrows will never reach the one nor the other.

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They stand on an eminence too high for the flight of such missiles, and on a rock of integrity which all the powers of the bank and hell combined can never shake.

FRIDAY, March 28.

Mr. J. BOULDIN, the member elect from Virginia, in the place of his brother, the late T. T. BOULDIN, appeared, was sworn, and took his seat.

WEDNESDAY, April 2.

Death of Mr. Blair, of South Carolina.

After the journal was read,

Mr. McDUFFIE said: Mr. Speaker, I rise to discharge a painful and melancholy duty, by announcing the death of General JAMES BLAIR, a representative from the State of South Carolina. The occurrences of the few last weeks furnish to us all an impressive and awful admonition of the precarious tenure by which we hold this fleeting and feverish existence, while we are but too prone to act as if it would never have an end. Scarcely have our feelings recovered from the violence of the shock, produced by the extraordinary and unexampled spectacle of one of our number falling dead before our eyes, while in the act of addressing the House on a great question of deep and absorbing interest, when we are summoned to pay the last melancholy offices of humanity to another, whose death was equally sudden.

Mr. Speaker, I never have been able to feel that, on occasions of this kind, panegyric is an appropriate tribute to the memory of the dead. They are beyond the reach of praise, and it is not by this that they are judged, either in this world or the next. Biographical details, however brief, are, in my opinion, not more appropriate. Where the deceased is unknown, they are seldom of any interest. His name should be his epitaph; and, however blank it may appear to the vacant eye of the passing stranger, it will always have power to call up the recollection of his virtues in the bosom of friendship, and the tear of undissembled sorrow in the eye of affection—offerings more grateful and congenial to the disembodied spirit, than the proudest monuments which human art can erect, or the most pompous eulogium which human eloquence can pronounce. Without saying more, sir, I now ask the House to bestow upon the memory of the deceased the customary testimonials of respect, by adopting the resolutions I hold in my hand.

Resolved, That the members of this House will attend the funeral of the late JAMES BLAIR, at 4 o'clock, this afternoon.

Resolved, That a committee be appointed to take order for superintending the funeral of JAMES BLAIR, deceased, late a member of this House from the State of South Carolina.

Resolved, That the members of this House will

testify their respect for the memory of JAMES BLAIR by wearing crape on the left arm for thirty days.

The resolutions were adopted. The usual notifications thereof having been ordered to be sent to the Senate,

On motion of Mr. McDUFFIE, the House then adjourned.

FRIDAY, April 4.

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Mr. McDUFFIE resumed, and concluded his remarks in opposition to the resolutions. [This was the concluding speech in the debate, and was concluded by a vehement peroration—thus:]

Sir, the Executive branch of the Government has plunged the country into this stormy sea of desperate adventure, under circumstances which greatly aggravate the outrage committed upon the constitution, and upon the rights and interests of the people. What excuse or apology can be offered for such a daring assumption and hazardous exercise of power by the Executive? When Cromwell usurped the supreme power in England, he saw the nation torn to pieces by factions, and drenched in civil blood; and his strong arm clutched the fallen sceptre to save the country from universal desolation. When Bonaparte returned from Egypt, and dispersed the Chamber of Deputies, he found the armies of the republic driven back, the finances involved in bankruptcy, and the combined powers of Europe menacing the existence of France. Where, said he, are the conquests I made, the victories I achieved, the resources I supplied, and the armies I left for the security of France? But what was the condition of the United States at that fatal moment, when the evil genius of the President prompted him to assume the fearful responsibility of destroying our system of credit, deranging our system of currency, in open and avowed contempt of the legislative power? What was there in that condition to afford the shadow of a pretext for the usurpation of which we complain? What civil dissensions was it designed to compose; what financial embarrassments and public sufferings was it calculated to relieve? It is worth while to look back to the inception of this executive experiment. The people of the United States were in the enjoyment of an unexampled prosperity—literally basking in the sunshine of tranquillity, abundance, and contentment—blessings the more exquisitely realized from their contrast with the troubled scene which had recently passed away. They had seen a dark and portentous cloud lowering in the horizon, and could almost hear the distant thunder and see the prelusory flashes of the coming storm, which threatened to shake the mighty fabric of this federal system to its deep foundations. But at this eventful crisis, a redeeming power was interposed, in the spirit of conciliation; a covenant of peace was ratified here, the storm passed away, and the rainbow circled the arch of the

heavens, the cheering harbinger of that happiness and contentment which were the lot of a united people, until the fatal dog-days, when this most pernicious scheme of executive usurpation was engendered, not to save the country from civil dissensions, and restore its disordered finances, but to mar and destroy the brightest vision of happiness that ever blessed the hopes of any people.

And I regret to find that the authors of this fatal experiment are resolved to carry it on in the same reckless spirit in which it was conceived. Nothing has struck me more forcibly than the stubborn perseverance of the administration in their desperate purposes, hoping against hope, blind to the palpable results of experience, and deaf to the cries of a suffering people. It is a spirit of heartless indifference to popular suffering, wholly without excuse, and almost without example. We have been told by a member of this House, (Mr. BEARDSLEY,) in the exterminating spirit of that Roman who always concluded his speeches with the motto, "Carthage must be destroyed," that the Bank of the United States must be destroyed by whatever means, and at the hazard of whatever consequences. "Perish commerce, perish credit; give us broken banks and a disordered currency," rather than retrace the steps of this executive crusade against the bank! And the Chief Magistrate himself declares that neither "the opinion of the Legislature, nor the voice of the people, shall induce him to abandon his purpose, whatever may be the sufferings produced," adding, for the consolation of the enterprising and industrious classes, that, if those should fail "who trade upon borrowed capital," they will deserve their fate!

Mr. Speaker, we can scarcely give credit to the historian who records the degeneracy and degradation of a great people of antiquity, when he informs us, that a Roman Emperor amused himself by fiddling, while the capital of his empire and the fortunes of the Roman people were involved in one general conflagration. But our own melancholy and woful experience is but too well calculated to remove any historical scepticism which might induce us to suppose, that the extraordinary spectacle to which I have alluded, was drawn rather by the pencil of poetry than by the pen of historical truth. For, even at this early period in our national progress, in the very dawn of our republican institutions, we are ourselves exhibiting to the world, which we vainly boast of enlightening by our example, a spectacle, in some of its aspects, more unnatural and revolting than its Roman prototype. If my recollection of this interesting chapter in the history of man be not imperfect, Nero was not himself the incendiary who applied the fatal torch by which the temples and the gods, the senate house and the forum, the gorgeous palaces, and the humble cottages of the imperial city, were consigned to the devouring element. Can you say as much, sir, I will not say for the President of the

United States, but for that irresponsible cabal, which is the living emblem of pestilence and famine, by which even his more noble and generous impulses are converted into instruments of mischief? Who is it that has kindled up that conflagration which is now sweeping over the land, like a prairie fire of the west—bearing destruction in its bosom, laying a scene of desolation in its rear, and scattering consternation in every direction? Nay, sir, who is it that has sacrilegiously invaded the sanctuary of the constitution, and lighted at the very fires of the altar that fatal brand, which, desperately and vindictively hurled—with whatever aim—has struck upon the great temple of our national prosperity, involving it in "hideous ruin and combustion?" Mr. Speaker, it was no midnight incendiary that silently stole into the temple with this Ephesian torch, concealed by the mantle of darkness. No: it was the high-priest of the constitution that violated the sanctuary and desecrated the fires of the altar. It was in the broad glare of noon-day, from the imperial heights of power, and in open defiance of all the moral and political guarantees of human rights, that this consuming brand was cast into the elements of combustion, and which came upon an astounded people without cause and without notice, like Heaven's avenging bolt from a cloudless sky. And now that the signal bells of alarm and distress are ringing from one extremity of this Union to the other, mingling their disastrous chimes with those cries of distress which come to us from the four quarters of the heavens, on every wind that blows, and forming one mighty chorus of indignant complaint that has forced its way into the sealed ears of infatuated power—with what sympathy, with what feelings of commiseration, with what "compunctious visitings" are these proofs of a nation's suffering received by the authors of the calamity and their accomplices?

[Here Mr. BEARDSLEY made an explanation, disclaiming the language imputed to him by Mr. McDUFFIE, to which Mr. McD. replied, that he spoke from memory, and did not profess to give the gentleman's words throughout, but his (Mr. McD.'s) interpretation of them.]

Mr. McD. resumed. I ask you, sir, if the administration or its friends have raised a finger to relieve the country, or even uttered a single word of encouragement or consolation to soothe the afflictions of the people? From one quarter they are told that they must be mistaken as to their own sufferings, for that "the Government feels no distress"—a sentiment in which I doubt not, the office-holders, who constitute that Government, will most sincerely concur. Oh, no! the office-holders, from the President down, who live upon fixed salaries, do not experience the least distress, from that great national calamity, which adds twenty-five per cent. to the value of these salaries! For they have doubtless found out, without much skill in arithmetic, that the same cause which depresses the value of labor and all the productions of industry

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twenty-five per cent., increases the value of their income precisely in the same degree. It is not all wonderful, therefore, that "the Government" should be able to bear the sufferings of the people, with the most philosophical fortitude. Yes, sir, these gentlemen office-holders, while sitting in their armed chairs and enjoying their enhanced salaries, can look down upon the sufferings of the people with as much tranquillity and composure, as an experimental philosopher looks upon the contortions of a reptile or an insect, expiring for the want of vital air under one of his experiments!

And in what spirit does the President of the United States receive the complaints of the people, when brought to the foot of the throne? No constitutional monarch in Christendom would venture to respond the complaints of his subjects in the same spirit of dictatorial arrogance and supercilious indifference: "I do not wish to be pestered with your complaints. I never will restore the deposits. I never will re-charter the Bank of the United States. I have a measure in reserve which will destroy the bank at once, and which I am resolved to apply, if the bank continues to pursue its present course, be the consequences to individuals what they may!" The people, however, are consoled by the royal assurance, that "those who trade upon borrowed capital ought to break," which will of course prepare them to meet their fate with Christian fortitude and resignation! What are we to think, sir, of a President of the United States, who can thus coolly doom to extermination a large proportion, probably three-fourths, of that great middle class of our country, which constitute the bone and sinews of the body politic? What shall we say of his knowledge of the elements of our national wealth and productive industry? The most useful, industrious, and productive class of our citizens, habitually trade upon borrowed capital to a very great extent. It would be a curious subject of statistical inquiry, and I will venture to conjecture that, taking the average of this class, one-third part of their active capital is founded upon credit, in some shape. Every American statesman should know, what does not appear to have been dreamed of in the President's philosophy, that, owing to the stability and security of our institutions, credit has become an element of wealth and a substitute for money; a state of things which can only exist under constitutional Governments, and which has heretofore existed in our country in an extent unknown, perhaps, to any other. Hence, among other causes, the unprecedented progress of our prosperity.

But to return. It seems that the complaints of the people are rude, unmannerly, and disloyal—as if the porter at the palace should say to their committees, Do not annoy the ear of majesty with the harsh dissonance of your complaints, but regale it with a sweet serenade of flattering symphonies; and if you must pray for relief, in the extremity of your suffer-

ings, be sure and conclude your supplication with a political doxology, ascribing all power, and all praise, and all glory to the deified Cæsar!

But, sir, the people of the United States are not to be put off in this way; and I will take leave to commend to the consideration of "the Government," and particularly to those fat, sleek, office-holding gentlemen who feed out of the public crib, an instructive picture, drawn to the life by the great master painter of the human passions. During the canvass of Caius Marcins for the consulship, Shakspeare represents two Roman citizens as holding a dialogue relative to the state of the republic. Caius Marcins, better known by the name of Coriolanus, relying upon his military services, and the support of the patricians, who were the office-holders of that day, exhibited a haughty and imperious bearing, contemning the restraints of law and all the civil authorities of the republic. It was a period of much popular distress, increased by the extravagance and rapacity of those in authority, when the two citizens are introduced discussing the politics of the day. You know the fate of Coriolanus; and I warn the friends of General Jackson, that, although military glory has great fascination, and though the Americans are a grateful people, and have refuted the calumny that republics are ungrateful, he must not rely too much upon that glory, nor tax the national gratitude beyond all endurance. I particularly warn his disinterested personal and political friends, that, if they do not rescue him from the mercenary sycophants who are murdering his reputation, there is too much reason to apprehend that the man who came into the presidential office with more popularity and a more enviable fame than any Chief Magistrate since the days of Washington, will go into retirement, when he ceases to be surrounded with the appendages and patronage of power, escorted by the execrations of a betrayed people, and deserted by the heartless flatterers who have been the means of betraying him. I shall be very far, Mr. Speaker, from taking any pleasure in the fulfilment of this anticipation. It is with an opposite sentiment that I perceive the strong passions and naturally high impulses of a venerable old man, perverted to sinister ends, and made the instruments of ruin to the country, and destruction to his own fame.

No human sagacity can exactly predict what direction this calamitous state of things will take, or in what catastrophe it will terminate. But as I am a firm believer in the retributive justice of a superintending Providence, I think it not improbable that "even-handed justice may commend the poisoned chalice to the lips" of those who intended it for the lips of others. It may happen that wicked projectors of this pernicious experiment, and their schemes of avarice and ambition, will be the first to feel its destructive energy; and gentlemen must not be surprised if the very first shock of this

mighty galvanic battery of credit and currency, should prostrate the favorite system of those who have impiously presumed to tamper with those mighty elements, without comprehending their nature and power.

But I must hasten to the consideration of the remedy by which the country is to be relieved from its present embarrassment and suffering. And first I will examine the projects of remedy held out by the administration. Since the commencement of the session, the friends of the administration in Congress have been repeatedly and urgently called upon to disclose their plan of relief—their final arrangement of the great subject of the currency. And pray what has been the answer? Why, sir,

"Various, that the mind of desultory man,
Stagnant of change and fond of novelty,
May be indulged."

The gentleman from New York (Mr. CAMERON) favored the House with a very edifying disquisition on the system of Scotch banking, which he commended to our admiration and adoption, although it is a mere paper system, without a specie basis, practicable in Scotland from the fixed and regular habits of trade, but wholly inapplicable to our peculiar habits and federal system. Another gentleman, in another quarter, (Mr. WHEAT, of New York,) standing in a very confidential relation to the Executive, informs the country that the administration is resolved to adhere to the system of State bank depositories, on the faith of that sagacious financial prediction, which assured us that this system would furnish the country with a currency equal to that furnished by the Bank of the United States, if not better. A third gentleman, (Mr. RIVZ, of Virginia,) speaking still more authoritatively the sentiments of the administration, has amused the country with a homily, more in the spirit of poetry than of practical statesmanship, in favor of the *beau idéal* of a hard-money Government; a scheme just as practicable as it would be to roll back the current of time, and carry back the present generation, with all its interests and improvements, to the golden age of fabulous antiquity? The administration are singularly fortunate in one respect. Occupying a position which makes it very convenient to be "all things to all men," they have in Congress gentlemen of all manner of opinions, each prepared to exhibit to the different political divisions of the country, even his own peculiar scheme, as the plan of the administration. Sir, it has been somewhere said that language was designed to answer two great purposes: the one to convey our ideas, the other to conceal them. Being myself a plain, straightforward man, accustomed to say what I think, and think what I say, I have no practical knowledge of this latter use of language, though I can very well imagine that a mere political, and particularly a trading politician, if there be such a thing, would find it of singular advantage in certain critical emergencies. What, for example, do the adminis-

tration mean by throwing out those visionary and notoriously impracticable schemes, dazzling and blinding the public eye by their flickering glare and conflicting rays, giving no light, but serving rather to increase the darkness visible? Are they designed to enlighten the public mind as to the ultimate scheme of Government banking, in which these disorders of the currency are to terminate? For no such vulgar purpose! And let me inform the House and the country that the administration are not without the authority of a very high example for the course they are pursuing. During that eventful period of English history which intervened between the execution of Charles I. and the establishment of the Protectorate, Oliver Cromwell, then Lord General of England, and who was permitted, by a sort of parliamentary courtesy, to speak before the representatives of the people, had frequent occasion to express himself on the state of the country. On one occasion in particular, when the public disorders and distresses had reached a crisis which rendered the necessity of some change obvious to every one, he made one of those artful, involved, ambiguous, and incomprehensible speeches for which he was so remarkable; and, after portraying, with great distinctness and power, the ruinous tendency of the prevailing anarchy, pronouncing it to be utterly intolerable; at this eventful moment, when his whole audience hung upon his lips, anxiously expecting the revelation of some grand remedy for the convulsions of the country, he concluded his speech, as the historian informs us, "by explaining to the assembled Parliament the eighty-fifth psalm." Now, sir, I have always entertained a strong prejudice against Cromwell, and I do not know that I can do him justice in any thing; but I will affirm before this House, and maintain before any tribunal in the world, that his remedy for the anarchy of England was as practicable, as sincere, and as intelligible, as that confusion of false lights which this administration has thrown out to cover designs against the liberties of this country, more fatal than those which Cromwell had formed against the liberties of England.

Do you doubt, sir, that when Cromwell was amusing the Parliament by expounding a psalm, his mind was filled with the alluring vision of crowns, sceptres, and all the appendages of that more than kingly power, which he had then resolved to establish. And can we doubt, in the midst of concurring signs which everywhere meet the eye, that it is the settled purpose of the existing dynasty, to perpetuate its power by a gigantic system of government banking, without any example in history?

Mr. Speaker, the experience of the last few years has entirely changed my views as to the destiny of the human race. All my youthful visions of the perfectibility of mankind have vanished before the sad realities of the times. They are gone forever. I am now constrained to believe, that with all the lights of reason and

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experience, and the political improvements of our country, men are still the idolatrous and predestined victims of imposture. Before that God, to whom I am responsible for what I say here, I do believe that the annals of human idolatry and delusion cannot furnish an example of a more impudent, audacious, and monstrous imposture, than that which this administration is attempting, and I fear, with too much success, to palm upon the people of the United States, under the flimsy and delusive guise of returning to the primitive simplicity of a "hard-money Government!" Nothing that I have read, amongst all the superstitions of the world, transcends its monstrous audacity. "A hard-money Government!!" From what quarter is it to come? and in what manner is it to begin? Is it to come from the land which is already overshadowed by the "safety-fund system" of converting commercial banks into political machines? Under such auspices, it very naturally commences by establishing a mere paper system, wholly unconnected with specie, by way of going back to "a hard-money Government!" Destroy the Bank of the United States; remove the only effective barrier which can restrain an unlimited issue of the mere rag currency which once before afflicted the country, and all will be well!! An unchecked system of paper issues, a "federal safety-fund system," is a most extraordinary piece of machinery for coining hard money! Yet such is the watchword, such is the talismanic motto of the "republican party," as it has been proclaimed by that official organ which seldom speaks but in the words of its master; and through which the general orders have been issued for the pending and approaching campaigns. It is a contest between Jackson money and bank money! hard money and paper money! Let the partisans of the administration put a few silver dollars in their pockets and make them jingle on the hustings, and the victory is certain! Jackson money! Will any gentlemen inform me how much Jackson money now circulates in New York! Or is Jackson money like Jackson democracy, one thing in New York and another in Virginia? Pray, what is New York Jackson money?

But, sir, what are the signs by which this golden age is heralded forth to bless the eyes of the faithful? The blow of death is scarcely struck at the Bank of the United States, when, without waiting for its expiring groans, behold a host of banks of all sizes, are seen springing up like pestilential exhalations. A bank with a capital of ten millions, in Louisiana, and another in Ohio, and another in Kentucky; and I do not know how many more are in contemplation in the valley of the Mississippi. But what is much more "germane to the matter," we have recently seen a project brought forward in New York by the authors and managers of the "safety-fund system," and evidently to prop that tottering fabric, to make a loan of six millions of dollars to the banks

confederated by that system, for the purpose of relieving the people from the distresses produced by this executive experiment, and the whole property of the people of New York is to be mortgaged for the redemption of the stock which is thus to be placed in the hands of politicians to corrupt and purchase up the people! In Pennsylvania also, we see indications equally unequivocal of an approaching catastrophe. At a great Jackson meeting in Philadelphia, trumpeted forth as one of the largest and most imposing ever assembled in that city, graced by the presence of a former Secretary of the Treasury, a former Senator of the United States, and all the office-holders, the audacious proposition was made and carried, to sell the seven millions of bank stock owned by the United States, and lend the proceeds to the State banks under the authority and discretion of this administration. Under the same auspices, a proposition has been made to the Legislature of Pennsylvania to establish a State bank, with a capital of ten millions, one-half to be subscribed by the State—a mere political machine for squandering the money of the people to accomplish the corrupt purposes of desperate politicians. Such are a few of the more prominent signs of coming events, and no man who does not voluntarily close his eyes upon what is passing before him and around him, can behold them without alarm. I do most solemnly believe that if the administration shall succeed in their present projects, for combining the banking with the political power of the country, they will establish a colossal despotism without any parallel in history, and wielding an element of political power wholly unknown to any other age or country. It is an eventful crisis in our history, and it remains to be decided whether the people can be made the dupes of this monstrous scheme of ambition, covered over by the pretence of going back to a silver currency. Sir, it is not the first time in the history of human idolatry, when the horrid features of a foul and unnatural monster of imposture have been concealed from the eyes of his deluded followers, by a silver veil. You have no doubt read, sir, the instructive illustration of the weakness of human delusion, and the boldness of human imposture, furnished by the Irish poet in the story of the Veiled Prophet of Khorassan. Deprived of nature's fair proportions, the bold impostor covered his deformity with a silver veil, and hoisted a broad white flag; upon which was inscribed, in the words of sunshine, "freedom to the world." Holding out the alluring promise, that he would set free

"This fettered world from every bond and stain,
And bring its primal glories back again."

He drew millions of devoted followers to his banner. And after he had prevailed upon them to sacrifice their souls and bodies to his unholy rites, he raised the veil, and, instead of disclosing the promised vision of heavenly light, ex-

hibited his foul lineaments "in grinning mockery;" exclaiming to his wretched victims,

"There, ye wise saints, behold your light, your star,
Ye would be dupes and victims, and ye are."

May the honest devotees of a hard-money currency, the "working men's society," and all others who are opposed to the banking system, upon whatever principles, take warning from the example of these voluntary victims of a daring impostor, and avoid their fate! They here behold their fate accurately prefigured, if they do not rise up and resist the scheme of imposture which I have attempted to expose. Let the people of the United States rouse up from their slumber of fatal security, or when they do awake, it will be only to clank their chains.

Mr. McDuffie having concluded his speech, the question was loudly called, with a demand for the previous question, which was carried.

The main question was then put, viz.: "Will this House concur with the Committee of Ways and Means in the resolutions reported by them to this House?"

Mr. Wilde demanded that the question should be divided, so as to take a vote separately on each resolution.

It was divided accordingly: and put, first, upon concurring in the first of the resolutions reported, viz.:

"Resolved, That the Bank of the United States ought not to be rechartered."

The question was decided by yeas and nays as follows—yeas 184, nays 82.

YEAS.—Messrs. John Adams, William Allen, Anthony, Archer, Beale, Bean, Beardsley, Beaumont, John Bell, John Blair, Bockee, Boon, Bouldin, Brown, Bunch, Bynum, Campbell, Cambreleng, Carmichael, Carr, Casey, Chaney, Chinn, Claiborne, Samuel Clark, Clay, Clayton, Clowney, Coffee, Connor, Cramer, W. R. Davis, Davenport, Day, Dickerson, Dickinson, Duple, Felder, Forester, Foster, W. K. Fuller, Fulton, Galbraith, Gholson, Gillet, Gilmer, Gordon, Grayson, Griffin, Jos. Hall, T. H. Hall, Halsey, Hamer, Hannegan, Jos. M. Harper, Harrison, Hathaway, Hawkins, Hawes, Heath, Henderson, Howell, Hubbard, Abel Huntington, Inge, Jarvis, Richard M. Johnson, Noadiah Johnson, Cave Johnson, Seaborn Jones, Benjamin Jones, Kavanagh, Kinnard, Lane, Lansing, Laporte, Lawrence, Lay, Luke Lea, Thomas Lee, Leavitt, Loyall, Lucas, Lyon, Lytle, Abijah Mann, Joel K. Mann, Mardis, John Y. Mason, Moses Mason, McIntire, McKay, McKinley, McLene, McVean, Miller, Henry Mitchell, Robert Mitchell, Muhlenberg, Murphy, Osgood, Page, Parks, Parker, Patterson, D. J. Pearce, Peyton, Franklin Pierce, Pierson, Pinckney, Plummer, Polk, Ranchoer, Schenck, Schley, Shinn, Smith, Speight, Standefer, Stoddert, Sutherland, William Taylor, William P. Taylor, Francis Thomas, Thomson, Turner, Turrill, Vanderpoel, Wagener, Ward, Wardwell, Wayne, Webster, Whallon—184.

NAYS.—Messrs. John Quincy Adams, Chilton Allan, Herman Allen, John J. Allen, Ashley, Banks, Barber, Barnitz, Barringer, Baylies, Beatty, James M. Bell, Blinney, Briggs, Bull, Burges, Cagle, Chambers, Chilton, Choate, William Clark, Corwin, Cou-

ter, Crane, Crockett, Darlington, Ames Davis, Deberry, Deming, Dennis, Dickson, Duncan, Ellsworth, Evans, Edward Everett, Horace Everett, Fillmore, Foot, Philo C. Fuller, Graham, Greenell, Hildad Hall, Hard, Hardin, James Harper, Hazeltine, Jabez W. Huntington, Jackson, William C. Johnson, Lincoln, Martindale, Marshall, McCarty, McComas, McDuffie, McKennan, Mercer, Milligan, Moore, Pope, Potts, Reed, William B. Shepherd, Aug. H. Shepperd, William Slade, Charles Slade, Sloane, Spangler, Philemon Thomas, Tompkins, Tweedy, Vance, Vinton, Watmough, Edward T. White, Frederick Whittlesey, Elisha Whittlesey, Wilde, Williams, Wilson, Young—82.

So the House concurred in the first resolution.

The second resolution was then read as follows:

"2. Resolved, That the public deposits ought not to be restored to the Bank of the United States."

And decided by yeas and nays—yeas 118, nays 103.

The third resolution was then agreed to—yeas 117, nays 105.

The following is the third resolution:

"3. Resolved, That the State banks ought to be continued as the places of deposit of the public money, and that it is expedient for Congress to make further provision by law, prescribing the mode of selection, the securities to be taken, and the manner and terms on which they are to be employed."

The fourth was then read as follows:

"4. Resolved, That, for the purpose of ascertaining, as far as practicable, the cause of the commercial embarrassment and distress complained of by numerous citizens of the United States, in sundry memorials which have been presented to Congress at the present session, and of inquiring whether the charter of the Bank of the United States has been violated, and also what corruptions and abuses have existed in its management; whether it has used its corporate power or money to control the press, to interfere in politics, or influence elections, and whether it has had any agency through its management or money, in producing the existing pressure, a select committee be appointed to inspect the books and examine into the proceedings of the said bank, who shall report whether the provisions of the charter have been violated or not, and also what abuses, corruptions, or malpractices have existed in the management of said bank; and that the said committee be authorized to send for persons and papers, and to summon and examine witnesses on oath, and to examine into the affairs of the bank and branches; and they are further authorized to visit the principal bank, or any of its branches, for the purpose of inspecting the books, correspondence, accounts, and other papers connected with its management or business, and that the said committee be required to report the result of such investigation, together with the evidence they may take, at as early a day as practicable."

And decided by yeas 175, nays 42.

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Relief of Mrs. Susan Decatur.

[H. OF R.]

TUESDAY, April 15.

Death of Mr. Dennis.

Mr. STODDERT, of Maryland, rose, and addressed the House as follows:

Mr. Speaker: In announcing the death of LITTLETON PURNELL DENNIS, a Representative on this floor from the State of Maryland, I discharge a sad and solemn duty. Not a week has elapsed since he mingled in the deliberations, and co-operated in the active duties of this House: he now sleeps the sleep of death. What an impressive illustration of the instability of human life—"of what shadows we are, and what shadows we pursue!" The deceased stood to me, sir, in the double relation of colleague and friend. I knew him long and well. He was a useful, benevolent, and estimable man, and has finished his course in honor. He was no tame and ordinary character; and although his modesty may have delayed the development of his faculties for public service, during his brief connection with this House, his State is not left without proofs of his legislative prudence and skill. He served her in both branches of her Legislature for many years, with honor and ability. He was well gifted by nature, well educated, and well principled. His native sagacity, sound judgment and decision, and purity of purpose, made him what he was—a capable and honest public agent. The brave, generous, open, and manly qualities of his nature secured him the confidence and affections of the people among whom he lived, and made it their delight to honor him.

He is gone hence, sir; but his memory will survive, embalmed in the kindly regards of those who knew and appreciated his noble and manly qualities, and unembittered and untarnished by a single act of meanness, injustice, and oppression. He died, as he had lived, deserving and possessing the warm-hearted esteem of many, the ill-will of none. As the last act of respectful duty which it remains for friendship to perform, I move you, sir, the following resolutions:

Resolved, That the members of this House will attend the funeral of the late LITTLETON PURNELL DENNIS at 12 o'clock to-morrow.

Resolved, That a committee be appointed to take order for superintending the funeral of LITTLETON PURNELL DENNIS, deceased, late a member of this House from the State of Maryland.

Resolved, That the members of this House will testify their respect to the memory of LITTLETON PURNELL DENNIS, by wearing crapes on the left arm for thirty days.

Ordered, That a message be sent to the Senate to notify that body of the death of LITTLETON P. DENNIS, late one of the Representatives from the State of Maryland, and that his funeral will take place to-morrow, at 12 o'clock, from the Hall of the House of Representatives.

The above resolutions and order were unanimously adopted; and then
The House adjourned.

SATURDAY, April 19.

Relief of Mrs. Susan Decatur.

The House proceeded to the consideration of the bill for the relief of Mrs. Decatur, widow and representative of Captain Stephen Decatur, deceased.

Mr. HUBBARD, of N. H., said: All agree, Mr. Chairman, that the capture and destruction of the frigate Philadelphia, in the harbor of Tripoli, was one of the most heroic and daring acts recorded in naval history. All agree that the enterprise was conceived and was executed in that pure love of country which, forgetting self, looks only to her honor and to her glory. All agree, that the man, whose valor and whose virtue induced the performance of that deed of daring, is "above all praise." Whether regarded in its origin, in its character, or in its consequences, it cannot fail to fill the mind with admiration, and to cause every true friend of his country to rejoice that the valorous and self-devoted spirits which achieved that measure of national glory were the spirits of his own independent America. That act of heroism cannot too highly be appreciated. It has been, and it will be, commended in every country where public virtue and public valor are regarded as adding to national greatness and national glory.

Before I proceed, Mr. Chairman, to notice the particular objections which have been made to the bill, I will advert to the circumstances which preceded and which immediately succeeded the capture of the Philadelphia. I will do this in order to show the practical value of the achievement which is now the subject of consideration. I will do this to show, that the most beneficial effects were the direct and immediate fruits of this victory.

Our relations with Tripoli and the other Barbary States, anterior and subsequent to that event, are replete with instructive lessons. By the first article of the treaty, approved in 1797, as entered into between the United States and the Bey of Tripoli, "a firm and perpetual peace and friendship" was not only agreed to be established and maintained by the full consent of both parties, but was also "guaranteed by the most potent Dey and regency of Algiers."

By the tenth article of the same treaty, it is provided that "money and presents demanded by the Bey of Tripoli, as a full and satisfactory consideration on his part, and on the part of his subjects, for this treaty of perpetual peace and friendship, are acknowledged to have been received by him previous to his signing the same, according to a receipt which is hereto annexed except such part as is promised on the part of the United States to be delivered and paid on the arrival of their consul at Tripoli, of which part a note is likewise hereto annexed, and no pretence of any periodical tribute or further payment is ever to be made by either party."

Notwithstanding the ratification of this treaty—notwithstanding the engagements thus sol-

emly and unqualifiedly made between the contracting parties, it is matter of history that on the part of the Bey of Tripoli, its provisions were totally disregarded. It was upon its face a treaty of peace and amity—it was in practice, but a mere pretext for the most unwarrantable demands upon the United States on the part of the Tripolitan Government.

From 1797 until 1801, when there was a formal declaration of war made by the Bashaw of Tripoli against our own republic, instead of that protection and security promised by the treaty, every depredation which rapacity and violence could suggest, was committed upon our commerce. Every exorbitant exaction and pecuniary tribute was demanded which their cursed lust for gold could induce. Without the shadow of right—without any justifiable pretence, not only was our commerce and navigation interrupted, our property taken to satisfy the uncontrolled passion of the Bashaw himself, but also our native citizens, the sons of our own soil, were captured and incarcerated, until the cruel and mercurious exactions of the Tripolitan Government were answered. Thus it was that, in three short years, more than three hundred thousand dollars were extorted from us to soften the heart of the tyrant, to court the favor of Tripoli by degrading the spirit and humbling the pride of America. Tribute was a word not sanctioned in our national vocabulary. "Millions for defence, not a cent for tribute," was our universal sentiment. The claims of the Bashaw, made without right, and against the highest authority of his Government, were contemned and openly resisted, but to no effect. War was at length declared; the standard of American liberty was razed to the ground; no alternative was left. To submit to the exactions of unlicensed despotism must have been at the sacrifice of our national honor. It was impossible. The sentiment of Mr. Jefferson, the Chief Executive Magistrate, communicated to Congress in December, 1801, was but the sentiment of the whole American people.

That distinguished statesman, in his annual Message remarked, "To this state of general peace with which we have been blessed, one only exception exists. Tripoli, the least considerable of the Barbary States, had come forward with demands unfounded either in right or in compact, and had permitted itself to declare war, on our failure to comply before a given day. The style of the demand admitted but one answer." An American squadron was ordered into the Mediterranean to maintain those rights sacredly guaranteed by the treaty of 1797; to protect our commerce; to secure our citizens from capture; and to defend the honor of our country. An appeal was made to the virtue, the valor, the pride, and the patriotism of our republic, "to carry the war with spirit and with effect into Africa."

We were engaged in a controversy of no ordinary character, and with a nation of no ordinary means. Every overture pacific in its

terms, every declaration evincing a fixed purpose to adhere, on our part, to treaty stipulations, were disregarded. "Give, give! or my corsairs shall destroy your commerce," was the undisguised language of the Bashaw.

We prepared for the conflict; and the accidental loss of our frigate *Philadelphia* was among the first events which succeeded the declaration of war. The way and manner of her falling into the possession of the enemy is known to every member of this committee. The vessel was dislodged from the rocks; taken and captured; her officers and crew loaded with chains and most unfeelingly incarcerated in their common prison.

"Description," in the language of one of the sufferers, "can convey but an inadequate idea of the horrors of our imprisonment: we were confined in a dungeon in the centre of the castle, into which no air or light could find access, but through a small iron grate in the terrace or ceiling." Such was the condition of our unfortunate countrymen who fell thus accidentally into the possession of our relentless enemy.

The effect produced by this capture is equally well known. "It was a jubilee in Tripoli; the Pacha and his court did not attempt to conceal their exultation. So extravagant were his calculations, that he would not, after that event, listen to any proposal of peace and ransom, for a less sum than one million of dollars."

Well have I said, then, Mr. Chairman, that we were engaged in a contest of no ordinary character, and with a nation of no ordinary powers. It became necessary, sir, to break down the demands of her mad passions; to bring her back to a sense of common justice; to awaken something like principle; or, if not, effectually to alarm her fears, by giving to her evidence of the truest heroism, and of the purest patriotism.

The bare recital of the events which immediately succeeded the capture of the *Philadelphia*, cannot fail, even at this late period, to fill the heart with sorrow and sadness. At that time, when the wrongs done our country and our brave men, were fresh and full in recollection, the arm of every naval hero in the Mediterranean must have been nerved; every heart and soul must have been animated. Honor and pride must have stimulated to action, and called for vengeance on the treacherous foe.

It should be remembered, that, up to the 7th of February, 1804, (more than seven years after the treaty with Tripoli,) the conduct of the Bashaw and his court evinced a determined and unprovoked hostility. The course which was left to our brave men, then in the Mediterranean, was plain, and of which they were duly sensible. To treat with the Government of Tripoli would be unavailing; to meet and to conquer her corsairs would be equally ineffectual: but to carry the war home; to make the enemy tremble in his castle; to let him witness our fixed and determined purpose; to make

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him sensible of our valor, and of our entire devotedness to the cause of our common country, would alone answer the great design.

Influenced by such high considerations, Decatur applied to the commanding officer of the squadron for leave to enter with such a vessel as he might select, the harbor of Tripoli, to board and to capture the Philadelphia, there safely moored. The proposition was received, well weighed, maturely considered, and deliberately acceded to. Nothing short of this could bring down the proud and towering spirit of the Bashaw himself.

An order was issued, and this order executed; it was faithfully executed; and that constitutes the foundation of the claim now set up for remuneration, by the captors of the Philadelphia; and yet it has been contended, and is now gravely contended here and elsewhere, that the order of Commodore Preble conflicts with the legal and equitable rights of the captors.

I will transcribe, literally, the order which emanated from Commodore Preble.

[The order read.]

Such was the order—an order most faithfully executed; the execution of which has given to our country an elevated naval character among the nations of the earth.

And what, Mr. Chairman, is the fair import, the liberal and just construction of this written command? It is nothing more and nothing less than a direction to Decatur to board the Philadelphia, and, if he meets with resistance, to carry all by the sword; in other words, to overcome the enemy—to obtain the entire control, the absolute possession of the vessel—to divest the enemy of all right, and to make her the means (if, in the exercise of a sound discretion, he can) of destroying the Bashaw's vessels in the harbor; or, if he can, without risking too much, he might make the guns of the vessel the instruments of destruction, not only to the shipping, but to the castle of the Bashaw. It was not possible for Decatur to fulfil the order which was given him, without first driving the enemy from the vessel, and acquiring an undisputed control and possession—without having, to all intents and purposes, captured her from the Tripolitans. I am aware that it was part of the order to burn the Philadelphia: I am aware that the destruction of the vessel was regarded as an object of great importance: and I cannot for a moment doubt that, were it not for such an additional direction, Decatur would have brought her in triumph and in safety out of the harbor of Tripoli, and attached her to the American squadron then in the Mediterranean. Be that as it may, the order was first to board—to break down all opposition—to carry all by the sword—to conquer the enemy, and to capture the vessel; and it could not have been possible for the crew of the Intrepid to have set fire to the Philadelphia, and thereby to burn and to destroy her, until they had divested the foe of the possession, and had obtained the

entire control themselves. Such was the order, and such is the evidence in the case. It was, then, a capture, and every right vested in the captors which would have vested had the capture been made upon the high seas, "*jure belli*."

Before I examine further this position, I would advert for a moment to the effect produced at Tripoli by the capture and destruction of the Philadelphia, and by the events which followed close upon that brilliant achievement.

"The tone of confidence and triumph continued until this daring enterprise illuminated the castle of the Bashaw with the blaze of Decatur's trophy.

"The sensation produced by the achievement was indescribable: consternation and dismay were depicted on every face. But the best evidence of its impression was the frequent conferences of the Pacha with the consuls—his undisguised desire to make peace, and his propositions to that effect, on terms much more moderate; even for \$200,000 did he then offer to ransom our captured freemen. The results of this capture were of incalculable advantage to the nation. They led to an honorable peace—to the abolishment of tribute—to the liberation of the suffering captives—to future peace and honor—and to a gallant, ambitious spirit in the navy."

The effect produced upon our brave countrymen, then immured in Tripolitan dungeons, can better be conceived than described. It could not fail to reanimate their hopes, to lighten their burdens, and to strengthen their confidence. One ray of light, emitted from the towering mast of the burning Philadelphia, breaks in upon their dark and comfortless cells: they could not but feel its cheering influence; they could not but be thereby better fitted to bear every privation, and to submit to every suffering which the deep-rooted malice, and the humbled pride of their own and of their country's enemy, should presume to inflict.

It will be admitted that the subsequent capture of the Tripolitan gun-boats in August, 1804; the brilliant success attending the land operations of General Eaton and his army, and the self-immolation upon the altar of patriotism of the intrepid Somers and his comrades—whose fates are told on the proud monument erected to perpetuate their fame and glory, now standing in the front of this Capitol—more or less contributed to that highly favorable treaty which was made with Tripoli in June, 1805, sixteen months only after the capture of the Philadelphia. By the 2d article of that treaty, it is expressly stipulated, that

"The Bashaw of Tripoli shall deliver up to the American squadron, now off Tripoli, all the Americans in his possession; and as the number of Americans in possession of the Bashaw of Tripoli amounts to three hundred persons, more or less, and the number of Tripoline subjects in the power of the Americans, to about one hundred, more or less, the Bashaw of Tripoli shall receive from the United States of America the sum of \$60,000, as a payment for the difference between the prisoners herein mentioned."

No one will or can doubt, then, the direct and substantial benefit which the capture of

the Philadelphia and subsequent events produced to our country. While that vessel was in the possession of the Pacha and his court, nothing less than a million of dollars could purchase the ransom of her crew. By the treaty of June, 1805, he gave up all for the sum of sixty thousand dollars, and agreed that there shall be, from the conclusion of the treaty, a firm, inviolable, and universal peace, and a sincere friendship between the President and the citizens of the United States of America on the one part, and the Bashaw, Bey, and subjects of the regency of Tripoli, in Barbary, on the other, made by the free consent of both parties, and on the terms of the most favored nations. Stipulations which have been inviolably observed: our commerce has been, from that time, undisturbed; our trade has remained uninterrupted; and the name of an American citizen has never failed since to command respect in that State in Barbary. No tribute in money or in stores has been exacted. The memorable successes and events of 1804 gave us an influence and a character with that and every other Barbary Power, which has, since that period, been felt and acknowledged.

I have already adverted to some of the circumstances which attended the capture of the Philadelphia, and which of itself produced such a revolution in the temper and mind of the Bashaw of Tripoli. I have already adverted to the circumstances under which the enterprise was carried on, by whom the plan was conceived, and by whom it was executed.

Regarding the taking of the Philadelphia as a legal capture, I will proceed to show what rights the captors thereby acquired. For I contend that the subsequent destruction of the vessel, by order of Commodore Preble, cannot impair any right which was vested by the capture itself. And as it respects the captors, it is wholly immaterial whether the order was given for the destruction anterior to the engagement, or during the engagement, or after the capture had been achieved. We were at war with Tripoli; the great end and aim of every battle was to annoy the enemy to the greatest possible extent. The question, and the only question, is, was the enemy deprived of so much of her naval force, by the power of our arms: was the Philadelphia captured? No one who reads the evidence can doubt the fact. The moment when the flag of the enemy was struck, that moment the right to the capture vested in the captors. The moment the stripes were raised above the crescent, that moment the interest of the Bashaw ceased, and the interest of the captors commenced.

To the captors, then, belonged the value of the Philadelphia, at the time and place of her capture, unless there had been subsequent acts on their part, amounting to a voluntary abandonment of the prize. This is not con-

tended; it was the order of the agent of the Government which alone prevented the Philadelphia, after her capture, from being again attached to our navy.

The right had vested when the flag of the enemy was struck. Suppose the captors had run the Philadelphia out of the harbor, and attached her to the American squadron, contrary to the orders of the commodore; suppose that they had safely brought her into port, would not the vessel have been adjudged in our courts of admiralty as good prize, and would not her value have been distributed as prize money among the captors according to the provisions of the prize act? I think there could be no doubt of the fact—and why so? Not from the circumstance of running the Philadelphia from Tripoli to Syracuse. Not from the circumstance of bringing her into an American port. Those circumstances could not add to or take from the title of the captors. If the captors had not received orders to burn, but Decatur himself, (in the exercise of sound discretion,) after he had acquired the entire control of the vessel, to prevent her recapture, had burnt and destroyed her, there could be no doubt, in that case, that the instant the torch was applied the right and title was in the captors.

If the captors had brought the Philadelphia out of the harbor, and on her homeward passage had effected an insurance of the vessel, and the same had been lost, could any doubt exist as to the right of the captors to claim the benefit of the policy? Certainly not. What gave the right? The capture. If the captors had violated any of the revenue laws of a neutral power, in the management of the vessel captured, and she had been condemned, the original owners could set up no claim to her—all their right and interest had been divested by the capture.

It will be remembered that, at the time of her capture, the United States were at war with Tripoli, and that up to June, 1805, hostilities existed between the two nations. It will also be remembered that, in 1813, and in 1814, we were at war with England. And the first case to which I would call the attention of the committee, will be found in the third volume of the laws, p. 590. An act of Congress was passed in March, 1804, for the relief of the captors of the Moorish armed ships Meshouda and Mirboha. Those vessels had been captured by the John Adams, under the command of Commodore Rodgers, and of the Philadelphia, then under the command of Commodore Bainbridge. The vessels captured were in force inferior to the vessels making the capture. And the act provides that the sum of \$3,594 50, being one moiety of the value of the armed ship Meshouda, captured by the frigate John Adams, and returned to the Emperor of Morocco, be appropriated for the expense of prize money due to the captors; and that the sum of \$5,000 be appropriated for defraying the expense of prize money

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due the officers and crew of the frigate Philadelphia, being one moiety of the value of the armed ship *Mirboha*, captured, and also restored to the Emperor of Morocco.

Here, then, is an act of Congress, passed in less than four years after the prize act, which gives the very construction to the prize act for which I have contended. The captured vessels were disposed of by order of this Government. There was of course no judicial proceedings; the captures vested in the captors the right to one-half of their value according to the prize act. That right was expressly recognized by the act of Congress, and provision thereby made for the due compensation of the captors. But these are not the only cases on record, growing out of the war with the Barbary Powers. On the 27th of April, 1816, Congress passed an act "That the sum of one hundred thousand dollars be, and the same is hereby, appropriated, to be paid out of any money in the Treasury not otherwise appropriated, and distributed in the same proportions, and under the same regulations, as prize money is now by law directed to be distributed, among the captors of the Algerine vessels captured by the American squadron under the command of Commodore Decatur, and afterwards restored to the Dey of Algiers."

Here, then, is another case not coming within the letter of the prize act. If it had, no legislation of Congress would have been necessary, but a case coming directly within the scope and policy of our prize system.

Apply the decisions and the precedents to the case under consideration, and it follows, most conclusively, that the widow of Commodore Decatur takes, and must take, his whole distributive share of the prize to her exclusive use. He died, leaving no children; he died, leaving a widowed wife to survive him. To whom, then, in accordance with the uniform proceedings of Congress, belongs his share in the prize Philadelphia? I say to her, and to her alone; that had he been an annuitant, any arrear of his annuity would descend to her, to the exclusion of his children. Had he been slain in battle, his half-pay would have been continued to her, to the exclusion of his children. Had he captured a prize, and the same had been adjudicated as "good prize," with the evidence before us, his whole distributive part would have gone to her. Had he captured a prize, and the same had been taken from him, by order of his Government, for public use, Congress is bound to carry into full effect his wish and his will. There cannot be, then, with reference to the case before us, two opinions; for, if any regard or reliance is to be given to the precedents and authorities which have been cited, it must follow that, in order to carry out the policy and the uniform practice of the Government, we are bound to extend to her sole use his whole interests in the capture of the Philadelphia.

Mr. Chairman, it has been my fortune to know, and to know well, a surviving brother

of Commodore Decatur: and, sir, I could not speak more in his praise than to say, he was a true brother—that he was, through life distinguished for that regard to principle—for that love of honor—for that contemptuous distaste for every thing mean, low, ungenerous, and unjust. Sir, it was in the session of Congress of 1829 and 1830, when a bill like unto this now under consideration, was in the course of debate. He well understood its provision. He was then well aware of the efforts made in behalf of certain nieces of Commodore Decatur, the children of Mrs. Knight; and then he hesitated not to say that the claim set up was unworthy of them—that to the widow of his brother belonged his share—that she, and she alone, was entitled to it; and that, feeling as he did, (then struggling hard with adversity,) he should despise himself by seeking to embarrass her claim, by pretending to set up his right. He, in whose veins flowed the pure blood, and whose soul was animated with the genuine spirit of Decatur, would never debase that blood, or degrade that spirit, by asking a portion of that which, of right, belonged to another.

Sir, this was the sentiment—this was the feeling—this was the principle of the only brother who survived Commodore Decatur. It was a sentiment—a feeling—a principle in all respects worthy of him. And I have adverted to the circumstance to show that only those collaterals who are removed beyond the degree of brother and sister, can be found to put forth a claim to any portion in the share, which of right, and in justice, and not against law, pertains to the widow. But if it were possible for a single member of this committee, after all this showing, to entertain a doubt on this point, I would refer him, in order to produce entire conviction, to the last will and testament of Commodore Decatur himself.

The will bears date on the 22d of March, 1820, and contains the following clauses:

"I give and devise to my beloved wife, Susan Decatur, and her heirs, all my estate, real, personal, and mixed, wheresoever situated; and I appoint my friends, Littleton Waller Tazewell, of Norfolk, Robert G. Harper, of Baltimore, and George Bomford, of the city of Washington, together with Mrs. Decatur, my wife, to be executors of this my will."

He lived for his country and his country's honor: he died to preserve untarnished his well-earned fame.

Sir, I never shall forget the feelings which pervaded my own section when the news of his death reached New England. It was then most truly and most feelingly said that "The pride of his country is no more." "Mourn, Columbia, for one of thy brightest stars is set; without fear, and without reproach—in the freshness of his fame—in the prime of his usefulness, has descended to the tomb."

Sir, it is a fact which should be borne in mind, that this will bears date the same day on

which his spirit took flight. It was the last deliberate act he did on earth: it was written with his own hand, and literally sealed with his own blood. And in that sacred instrument he tells you who had his confidence—his love—his whole heart. By that instrument he tells you who was to have his estate, real and personal—in possession and in expectancy. He, in whom was concentrated all her hopes—whose fame was her fame—whose fortune was her fortune, had, by this last and most solemn act, declared to those who should come after him, that unto her, and unto her alone, was given all he possessed in this world.

Mr. Chairman, I have already trespassed too long upon the indulgence of the committee. I have now said all that I have to say. I have endeavored, honestly and fairly, to answer the various objections which have been urged against this measure. If I have thrown any light upon this subject—if I have been able to present any view which will tend to aid a single member of this committee in his conclusions, I shall rejoice; I shall feel myself richly compensated for my feeble efforts. For when I bring to mind that this is the only case of the kind which has not received the favorable action of Congress; when I have made myself believe that the stern language of the law does not oppose the passage of this bill; that no good reason does exist or can exist for withholding this just claim longer from those entitled to it; that every consideration of common equity calls loudly for decisive action—I could not fail to exert my best energies in favor of the object.

This is a case, Mr. Chairman, which addresses itself so strongly to our sense of justice, to our feelings, to our pride, to our honor, to our patriotism, that I cannot but cherish the hope, and feel the confidence, that no further delay will be had, that the bill will now be passed, and that the measure will not fail to receive the sanction of the republic.

Amendments to the bill were offered by Mr. PARKER, and Mr. HARPER, of New Hampshire, both of which were rejected.

The bill was then laid aside.

TUESDAY, April 22.

Relief to Polish Exiles.

Mr. CAMBRELENG rose to ask the unanimous consent of the House to present a memorial. He felt assured that gentlemen would, with one accord, grant him leave, when he stated that it was the petition of the Polish exiles.

Leave being unanimously granted—

Mr. C. said he took great pleasure in presenting to the representatives of a free people, the memorial of the Polish exiles. Driven from their native land, these pilgrims of liberty come to worship at our altars. The memorialists are but a small portion of some 100,000 Poles who have been exiled from their country.

Some few found refuge in Europe; but most of them were banished to the wilds of Siberia. I trust, sir, we shall never violate those rules of public law, so necessary to protect the rights of nations, and to preserve the peace of the world—which prohibit us from interfering with the political affairs of other countries. But I know of no national obligation to prevent us from extending to these exiles our hospitality and our sympathy. Nor can the rigid rules of public law restrain the friends of freedom, in every land, from taking a deep interest in the struggles of patriots, wherever they may occur. Though the cause of unhappy Poland may not be the cause of nations, it is intimately associated with the cause of mankind.

[The SPEAKER stated that it was not in order to go further into the question than to state the contents and object of the memorial.]

Sir, said Mr. C., I am aware that it is not in order, without the consent of the House; but I would not, in such a case, insult their patriotism, by deeming it necessary to ask leave to submit a few brief remarks, in presenting the memorial. I repeat, sir, the cause of Poland is closely associated with the cause of mankind. Liberty mourns over her fate, and the children of every enlightened land learn her story, and weep over her calamities. Public law cannot blind us to the actual condition of the political world. The social elements of civilized nations are in commotion—antagonist principles are active and general war. The history of the last twenty years—the fundamental changes in the Governments of Great Britain, France, and Spain, prove that a spirit of reform is silently revolutionizing the plan and form of ancient Governments. Western Europe is animated with this spirit; and absolute monarchies are giving way to constitutional and representative Governments. It must be evident that the eastern and western portions of that continent cannot long remain in peace—the conflict between antagonist principles of Government must come on. Yes, sir, the question must sooner or later be determined, whether all who contend for the rights of man, shall be banished to our free land, or whether the white eagle of Poland is destined to wave triumphantly over the battlements of Warsaw.

I am sure, Mr. Speaker, it is not necessary for me to recount the sufferings of the Polish exiles, to excite the sympathies, or to solicit the favor of the House. There is, there can be, but one sentiment from the Canadian to the Mexican frontier. The voice of the nation, from the ocean to the wilderness, will welcome them to our shores, and proclaim their right to demand our hospitality. The countrymen of a Kosciuszko, and of a Pulaski, will find an eloquent advocate in the heart of every American. A debt of gratitude can never be cancelled. The claim of the memorialists is also sustained by the laws of hospitality and the usage of nations. They ask for a grant of land, that they may end their days in peace and security. Let us

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grant an asylum to these exiles, and while they mourn over the fate of the unhappy land of their nativity, may they be consoled with the reflection, that the brave Pole can never be an exile in a land of liberty.

It has been usual heretofore to refer memorials of this character to the Committee on Public Lands. It was my wish in this case to ask for a select committee; but I know the members of the former would contend for the honor of favorably considering it, and I cannot deprive them of the opportunity of doing so.

The memorial was read, ordered to be printed, and referred to the Committee on Public Lands.

MONDAY, April 28.

Mr. GARLAND, elected a member from Louisiana, in the room of Mr. H. A. BULLARD, resigned, appeared, was qualified, and took his seat.

Mr. BINNEY rose to state that he had been informed by Mr. FRANKLIN, the Clerk of the House, that he had received the afflicting account of the death of his father. This event occurred on Saturday last; and there were circumstances connected with it which rendered his going to Philadelphia indispensable. Under such circumstances, he had been informed that an absence of three or four days would not be objected to by the House. He asked leave, therefore, to submit a motion to this effect.

Leave having been given, the motion of Mr. B., that Mr. Franklin have leave of absence for four days, was unanimously agreed to.

TUESDAY, April 29.

Silver Coinage Bill.

Mr. WHITE, of New York, moved that the committee proceed to the consideration of the bill regulating the value of foreign silver coins in the United States.

Mr. KING said the proposed measure appeared to him to be too important in its character to be hastily adopted. There were some views of the subject which he thought had not been fully examined. When the mint of the United States was established, it was judged proper to make the silver coins of this country a trifle more valuable than foreign silver coins, in proportion to the weight of pure silver they contained. This was doubtless intended to operate as a check upon exportation, and upon consumption in manufactories, and to some extent it must have had the desired effect, by making it more profitable to export or consume foreign than American coin. It was now proposed to raise the legal value of the dollars of Mexico and the South American States. He said, to raise their legal value; because the bill provided in effect that 99 $\frac{1}{2}$ of those dollars should be a legal tender in payment of a debt of one hundred dollars, our currency. Why was this

necessary? Certainly not in order to induce people to take these dollars at their stamped or nominal value, for he would venture to say that no man in the United States would now refuse to take a Spanish dollar for a dollar. The reason why those coins were not in circulation was, because they were worth a trifle more than our own silver coins, for exportation and for manufacturing purposes. But what good end could be answered by raising the value of those foreign coins? Could you force them into circulation? You might; but to the extent you should do so, you would drive our own silver coins out of circulation, and out of the country. The amount of specie in this country had been variously estimated. The New York bank commissioners had supposed it to amount to about \$26,000,000. It might be less. It possibly did not exceed that sum. How much of this was of our own, and how much of foreign coinage, could not be known.

The honorable gentleman on his left, from New York, (Mr. SELDEN,) had said that there were not more than \$4,000,000 of our own coinage in the country. He was probably in error. Almost \$3,000,000 of silver were coined at the mint in 1833, and nearly an equal amount in each year for several years past. It therefore seemed probable that much the largest portion of the silver coin in the country was of our own coining. But suppose the reverse to be the fact. It would only prove that the difference between our own and foreign coins was not so great as to prevent the exportation of the former. In fact, the coin of the United States had been exported in large quantities. From 1826 to 1832, both years inclusive, upwards of \$6,000,000 had been exported; what portion of it was gold he could not say. Mr. K. had not the returns before him which would enable him to be exact in these matters, but if he was not mistaken, the annual importation of silver into the United States, for the last twelve years, had averaged about \$7,000,000 in each year—partly in bullion, but mostly in coin. And as the quantity of silver in circulation had not greatly increased, the inference was, that the exportation had nearly equalled the importation. And this must always necessarily be the case. No more silver could be retained in the country than could be profitably employed here. The surplus would be exported, and any attempt to retain foreign coin, by increasing its legal value, would only result in an increased exportation of the coinage of our own mint. If the mint could not coin enough to supply the circulation, another question would be presented; but it had coined more than the circulation could absorb. This was proved by the large exportations he had mentioned. Our gold coin was in a very different situation, the standard, alas! too high, and he should be glad to see a bill to reduce it, so as to make it a part of the circulating medium of the country. The annual expenses of the mint (exclusive of the original cost of the establishment) was about

\$60,000. This expenditure is a useful one, if a currency of known and uniform value was to be created by it; but if foreign coins were to be raised to such a value as to cause our own coinage to be exported, he could not perceive what advantage the country could derive from this considerable charge upon the treasury. The inconvenience and injustice to which the present proposed measure would subject persons who had large sums to demand from banks, had already been fully explained by gentlemen who had spoken. There might perhaps be a doubt whether the bill, if it were to become a law, might not to some extent impair the obligation of contracts; but it was not his purpose to enter largely into the discussion of the subject, and he would not, therefore, argue this point. He hoped the honorable gentleman from New York (Mr. WHITE) would consent to a postponement of the question.

Mr. COULTER said that this bill had passed to its present stage without attracting much consideration. It appeared to him that it ought to be more maturely considered before it was enacted into a law. The operations of its provisions would reach every section of the country, and interfere with the transactions of all classes of citizens who either paid or received money. Such laws, especially when there was any feature of novelty about them to which the people had not been accustomed, ought to receive the gravest consideration. He was willing to co-operate in any measure which would tend to increase the metallic currency of the country. But he doubted much whether this bill would have any such effect. Its practical operation would be, in his judgment, extremely inconvenient, and, at the same time, unjust. The usefulness of stamped coin was to make it pass at a known and legal value, according to the character of the stamp; so that whether received in large quantities or small, its value is uniform. But this bill provides that, in payments of the amount of \$100, the Mexican and other South American dollars shall be a legal tender by weight, and as that coinage is ascertained to be one-half per cent. purer than our dollars, ninety-nine and a half South American dollars will be made equal to one hundred dollars of our own coin, while, in smaller payments, or by tale, they will be just of the same value.

The practical operation of the bill will then be to increase, in the vaults of the banks, every ten thousand dollars of this coin to the value of ten thousand and fifty, and to decrease the value of bank notes in the hands of the holders in the same proportion. It is true that a person who receives payment in weight, in this kind of dollars, may go to the mint and sell it for bullion at the same price—but it would be a losing operation for his constituents beyond the mountains, who received from a bank ninety-nine and a half dollars in payment for a hundred of bank notes, to carry it to the mint in Philadelphia and sell it for one hundred dollars of American coin. The effect of the provisions

of this bill will be to give an advantage and profit to those who import, and the banks which accumulate it. This profit must at last come from some class of the community. If this is not the design of the novel feature of this bill, making these coins a legal tender only in large payments, I am at a loss to perceive what object it has. Otherwise, you might as well make bullion a legal tender by weight, whether in large or small quantities, and then this coin would pass, as is alleged by the supporters of this bill, as it ought to pass, for the amount of pure silver it contains. If the object of the bill, then, is to give such profit to the importers and those who accumulate this kind of coin, and thereby offer a motive to increase the quantity of silver in the country, the best way to do it would be to give a premium by law, which should be so far just, as to be paid by the community generally, for what was considered a public benefit.

There is something artificial and involved—something like the minimum principle in the collection of duties, in the provision of this bill, to which, he thought, the people he represented would not be reconciled. The habits and customs of our people have been, and are, to pay and receive silver coin by tale, or according to the value and character of the stamp impressed on it. This operates equally upon all descriptions of dealers and dealings. It is a practice easily understood, and of the greatest practical convenience in business. It is always prudent in legislators to follow and be guided by the settled habits and customs of the people. No small theoretic good was sufficient to induce him to depart from them. The coins described in the bill have long passed current in the country—a dollar for a dollar—no more, no less. If it is necessary to make them a legal tender, let it be done according to their value, as accepted by common consent.

Foreign coins ceased to be a legal tender in 1827. They have been ever since, and always will be, a good, if not a legal tender; for, in this bank-note age, it is not likely that any person will refuse to receive foreign coin, at its known and accredited value as such. But I have no manner of objection to a law declaring foreign coin to be a legal tender, although I consider it somewhat unnecessary, and calculated merely to raise a delusive hope as to the coming of the golden and silver age. But in doing this I would be guided by our former experience. That is a fountain from which the unlearned, as well as the learned, may drink wisdom and knowledge. The law which expired in 1827 made the Spanish milled dollar a legal tender, at the value of one hundred cents, and parts of a dollar in the same proportion. These South American dollars are of the same weight and purity, and so accepted and received everywhere. It seems to me, then, that the prudent course would be to revive the old law, and include in its enactments the dollars mentioned in this bill. We shall then put

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into operation machinery to which our people have been accustomed, and which has been proved to work well. There is something so novel in this measure of making silver dollars a legal tender by weight, and then only when there is at least one hundred, or rather ninety-nine and a half, together, leaving the single ones and stragglers to get along as they can; and the inconvenience of it in practice is likely to be so perplexing and vexatious, as well as unequal and unjust, that he was not prepared to vote for it. He hoped the bill would be postponed for further consideration and amendment.

Mr. WHITE withdrew the motion for the present.

THURSDAY, May 1.

Small Notes.

Mr. ADAMS, of Mass., asked and obtained leave to bring in a bill to prevent the Corporations of Washington, Alexandria, and Georgetown, from issuing bills of a less denomination than ten dollars.

After some discussion between Mr. ADAMS and the SPEAKER, in reference to the rule providing for cases of bills introduced by leave, the bill was referred to the Committee on the District of Columbia.

Mr. MERCEK being under an impression that the bill referred to banks, suggested that its passage would be utterly ruinous to every bank south of the Potomac, as nine-tenths of their circulation consisted of notes of the denomination prohibited.

Mr. ADAMS set him right as to the object of the bill, and observed, if any serious inconvenience was likely to ensue from its adoption, that would, of course, be a matter for the consideration of the committee to whom the bill has been submitted.

FRIDAY, May 2.

General Appropriation Bill—Minister to Mexico, Central America, and South American States.

The House then went into Committee of the Whole on the state of the Union, (Mr. HUBBARD in the chair,) upon the general appropriation bill, the following clause being under consideration:

"For the salaries of the *chargés des affaires* to Portugal, Denmark, Sweden, Holland, Turkey, Belgium, Brazil, Buenos Ayres, Chili, Peru, Mexico, Central America, and New Granada, fifty-eight thousand five hundred dollars."

Mr. ADAMS said: I observe that in this bill there are provisions for seven *chargés des affaires* to South America, besides one to Belgium. And I have included this in the inquiry I put to the honorable chairman of the Com-

mittee on Foreign Relations, because the newly instituted kingdom of Belgium is itself a novelty in the political world, and we have never before had an item of this description in our appropriation bills. We have already a mission in the Netherlands, that is, to Holland. And the kingdom of Belgium is a mere separation of a portion of the territory lately included in the United Netherlands, erected into a kingdom of the fourth or fifth rank in Europe. We have had commercial relations with that country, of the greatest importance, ever since the foundation of this Government; and a diplomatic mission has been maintained there much of the time since our missions abroad were first instituted. But it was never considered as a country of the first order; and, therefore, we have seldom kept there a minister of higher rank than a *chargé d'affaires*. Now the kingdom has been divided into two, and we have two *chargés*, at a joint cost to the Treasury of a minister of the highest rank.

I do not doubt it is in the power of the chairman of the Committee on Foreign Affairs to give the House such information as may induce us to consent to the item as entirely proper; and I have the less reason to doubt this, as I see that there is a *chargé* here from that kingdom. Still it is no more than proper that the House should be informed why it is judged necessary to establish permanent relations between that country and this. And it is the more proper, because with Austria, one of the first countries in Europe, an empire containing from twenty to thirty millions of people, and claiming the first rank in the scale of European States, we have never had any diplomatic relations. At no time since the declaration of our independence have we had even a *chargé* residing at that Court, with the exception of an appointment, during the revolutionary war, of a minister who was not received; nor have we had any mission to Germany, nor to the republic of Switzerland—a nation with whom, on general principles, we might, as republicans, be expected to sympathize more than with any other people of the old world. Yet the Swiss Cantons have ministers at the other Courts of Europe, and receive ministers in return.

I might mention other countries to which similar remarks would apply. We have had missions for many years at the Courts of Sweden, Denmark, and Prussia. We have now no minister at the Prussian Court, although that kingdom maintains a *chargé* with us. I mention these cases with a view to show that it has never been the principle of this Government to have missions in Europe unless there is special cause for them. The principle on which we have thus abstained has been that of economy alone; for, were it not for the expense, it would doubtless be considered expedient to have missions to every Government in Europe. It is with reference to this principle that I have made the present inquiry—a prin-

diple which is fundamental in the practice of this Government; I mean fundamental in its policy, not in the constitution; for there is nothing in the constitution to prevent our maintaining five hundred foreign ministers, if it were deemed expedient. Prudential considerations have prevented it, first on the part of the Executive, and then on that of Congress. We have looked to the principle of economy; and hence our rule has ever been to maintain no diplomatic relations with any foreign power, unless there be special occasion for it.

As I wish to satisfy the committee that I do not prefer any unreasonable request, I will beg leave to refer to the course of our diplomatic proceedings at the first organization of the Government.

In the year 1791, two years after the adoption of our constitution, before we had any ministers abroad, President Washington, on the 14th of February, sent a message to the Senate, informing that body that he had employed a private informal agent (*Gouverneur Morris*) to conduct a negotiation with the British Government. He did not nominate him at that time as a minister. Afterwards, on the 18th of February, in the same year, he sent another message, stating that he had set negotiations on foot with the Portuguese Government, (at which Court we have already had a *chargé* sent out under the old Congress.) In this message he proposed Mr. Humphreys to be commissioned as minister resident, a grade of minister which, in the diplomatic scale of European Governments, is reckoned of a rank between a *chargé* and a minister plenipotentiary. A minister of this rank, rather than a full minister, was preferred by President Washington on considerations of economy. He was of a higher grade than a mere *chargé d'affaires*, and not as high as a minister of the first grade; and his compensation, at that time, was the same with what is given now to a *chargé*. The Portuguese Government did not choose to negotiate with a minister of no higher rank than a *chargé d'affaires*, and a resident minister was resorted to as the cheapest that would answer the purpose. Mr. Humphreys was confirmed by the Senate. I cite this case as one which goes to show that this principle of economy has been fundamental in our policy ever since the foundation of the Government.

The next mission established was that to France—a Court where Mr. Jefferson had already been residing for three or four years, but had obtained leave of absence and come home, and was at that time Secretary of State. From that period to 1792 we had no minister but a *chargé* at that Court. In 1792, a very critical period, being that of the extremest heat of the first French revolution, President Washington nominated Mr. *Gouverneur Morris* minister plenipotentiary to France. The nomination met with objections in the Senate; the subject was referred to a committee, and they reported that, in their opinion, there was a special occa-

sion for a mission to London. A motion was thereupon made that it was inexpedient to appoint a minister plenipotentiary to any foreign Government. This resolution was offered immediately on the back of the President's nomination, so that it would seem there was not much of the collar at that time. Members felt no scruples then at bringing forward resolutions in open opposition to the opinions and purposes of the President of the United States, though that President was George Washington. The Senate, as will appear by what I shall now read to the committee, advised and consented to the mission recommended by President Washington, on the proof being furnished to them that there was special occasion for it.

Mr. ADAMS here read from the Executive Journal of the Senate, of 8th January, 1792:

Resolved, That a special occasion now exists for appointing a minister plenipotentiary to the Court of France.

And, on the 12th of January, 1792,

Resolved, (by yeas and nays, 16 to 11,) That the Senate advise and consent to the appointment of *Gouverneur Morris*, of New York, to be minister plenipotentiary for the United States at Paris, conformably to the nomination in the message.

The same course was pursued as to the mission to London. The Senate settled the principle that they would not sanction a mission to any foreign Court, unless it should first be proved to them that there was a special occasion for it.

Then he recommended a minister resident at the Hague: a minister of lower rank. A resolution was moved that there existed no present occasion for such a minister. On which resolution there was a tie, 18 to 18; and the question was decided in the affirmative (that is, advising and consenting to the appointment) by the Vice President. This confirms still more the principle I assumed, that there should be no appointment unless a special necessity should be made to appear. Although, in respect to France and England, the necessity was so obvious that little difficulty occurred, yet, as to Holland, there was an even vote. This was one of the principal reasons why I have asked the honorable chairman of the Committee on Foreign Relations to show us some occasion for this mission to Belgium.

With regard to the South American missions, one reason why I desired to have the vote deferred was, that I might have an opportunity to look at the documents, and to show from them that it has ever been the sense, both of this House and of the Executive, from the time our diplomatic relations were first formed, that a necessity must be shown before a foreign mission might be established; and further, that when that necessity should cease, the mission should also cease. I wished to show that such was the sense of Mr. Monroe and of the House of Representatives during his administration. All on the principle of economy—a principle

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which, I hope, we have not discarded; or, if we have, that we shall speedily return to it.*

On this ground it is that I wish the honorable gentleman from Virginia (Mr. ARCHER) to show us reasonable cause for all these South American missions. I have no doubt the reasons he shall show will be entirely satisfactory with respect to two or three of them, especially that to Mexico. That country lies immediately upon our own border, and there are obvious reasons which render it expedient and proper that we should always have a minister at that republic. But I wish the gentleman to turn his attention to those States which have no ministers with us. From Mexico we have one. But there are others of these Governments which have not, and never, at any time, have had a minister in this country. Why do we keep up diplomatic relations with them?

As to Buenos Ayres, the question is peculiar: it is a different case from all the rest. I ask the gentleman to tell the committee what has become of our quarrel with Buenos Ayres. It was of such a nature that our *chargé d'affaires*, the brother of my honorable colleague over the way, (Mr. BAYLIZA,) thought it proper to demand his passports and come home—a step which is usually considered as the signal for war between nations; a step for which I trust the gentleman will be able to give satisfactory reasons. But I want to understand the present state of that affair. We know nothing, as a House, of our relations with these South American States. No communication has been made to us on the subject; the whole subject is altogether unknown to us. I, for one, want some information; and I ask it from the honorable chairman of the Committee on Foreign Relations, because I have had some experience which leads me to conclude that I cannot get it elsewhere.

Mr. ARCHER, in reply to Mr. ADAMS's inquiry, answered, in substance, as follows:

I feel such an extreme degree of respect for my friend from Massachusetts, that I am obliged by his declaration, however it may contradict

what I had previously thought, as I had supposed that that honorable gentleman was the very last man in the House who stood in need of the information for which he had applied to me. I understand his inquiry to be so very large in its terms that it covers, in fact, almost all the diplomacy of the country. But, although his question has this very extraordinary extent, I should not be indisposed, nor, as I hope, unprepared, in some good degree, to answer it, were it not for a physical indisposition which must disable any man (unless, indeed, it be the honorable gentleman from Kentucky, Mr. CHILTON) to respond at large to such an inquiry. I might certainly, and that without just censure, refuse to take the attitude of respondent on this occasion; nor do I assume it under any conviction of duty, but voluntarily, from the desire which I at all times feel to comply with the wishes of the highly respectable member who has made the inquiry. The gentleman from Massachusetts had said that, if there was any body in that House who assumed the ground that, in calling for an appropriation for foreign intercourse, the *onus probandi* did not lie on the Executive, he was confident that it would not be myself. Now I can only take this compliment, which I certainly esteem very highly, as intended to have reference to my fidelity to the trust reposed in me, in the station which it is my lot to occupy. Yet I am compelled to declare that, in reference to the greater part of the missions provided for in this bill, the burden of proof lies not on the Executive, who asks for the money, but on a member of the House who advocates its refusal. And why? To what department is it that the constitution has confided the duty of deciding what shall be the diplomatic relations between this Government and Governments abroad? Are we parties participant in that duty and its correspondent obligations? We certainly should be; and coequal with the President in this department of the public service, were the principle advanced by the gentleman from Massachusetts well founded. That gentleman goes upon the ground that, before any foreign mission should be established, the subject must first pass under our review, and have our approbation and concurrence. And is that the theory of the constitution? Suppose a certain foreign mission has been submitted to the Senate, approved by them, and in existence for years, are we to presume that that mission is improper, and not to appropriate for it until the contrary shall be shown? To put such a question is to answer it. And it would be sufficient, in answer to an inquiry so large as that which has been propounded to me by the honorable gentleman from Massachusetts, to say of all these missions but two, that it has been the judgment of the Executive department that they are expedient and proper, and that we have ministers now resident at these several Courts.

* This brief history given by Mr. Adams of our early foreign missions, and the principles on which they were created, merits and should receive the serious consideration of every actor in our public affairs. The legislative as well as the executive department—the members of the House of Representatives as well as Senators and the President—should seriously consider it. Permanent missions were not the policy of that time. Ministers *resident* were not only unknown in name, but in fact. A mission was not to be continual either in the person of one incumbent, or in the persons of successors. To be sent when necessary, and to come home when the necessity was over, was then the rule; and that not only on the score of economy but also of national policy, resulting from our geographical position and republican form of government, which required no close political connection with foreign powers, and admitted the reserved intercourse which necessity commanded; and which safety, peace, respect, and freedom from entangling alliances all recommend.

What, sir, can a Government like ours, maintaining numerous diplomatic relations with foreign Governments on both continents, justly be required to re-prove every year the necessity of providing for each of its missions abroad—missions, the propriety of which has long since been decided, and which have been maintained without interruption for a series of years. Surely such a requirement must be pronounced useless, if not wanton, and might be repelled as an outrage upon a co-ordinate department of the Government. I therefore say again, that I should be fully authorized to answer, that those to whom the constitution has assigned the authority to judge, have decided that we ought to have ministers at those Courts. But, though that answer would be sufficient, and though I could, on this subject, appeal to the authority of the gentleman from Massachusetts himself, I will not take that ground. What did the gentleman say but a moment ago? That there were other Courts, where we were now unrepresented, where we ought to have ministers resident. The gentleman is right. It is undoubtedly true, and nothing but a terror of that temper on the part of this House, which the present debate has so clearly exemplified, has prevented our having before now a diplomatic representative near the Austrian Government—a Government which is not only one of the most important upon the continent, but one which has manifested a disposition to preserve and extend commercial relations with this country, and has even gone so far as to send a person to the United States with the express view of negotiating a treaty with us. I hope we shall, before long, be represented at that Court; and I am authorized to say, that, though that kingdom possesses but one commercial port, it is the desire and purpose of this Government to enlarge our commerce with her. Should this take place, a minister will be indispensable to conduct and watch over the interests of that commerce.

It is with the most unaffected surprise that I find any gentleman, above all, a gentleman so able, so enlightened, and so experienced as the gentleman from Massachusetts, and one who, as everybody in the country knows, has ever been remarkable for attaching a very high value to the importance of diplomatic relations, should advance an objection on this floor which goes to sweep away the entire diplomacy of this country, except as it relates to one or two Courts. For what has this Government instituted foreign relations at all? It is not mainly for the interests of commerce? Our social economy, and the peculiar structure of our Government, have secured to every man in this country the full and exclusive fruits of his own industry; but to what use is this, unless some mode should be provided, by which the benefits resulting from his industry and enterprise may become available? If it were not for commerce, there would be little

motive for a Government, situated as ours is, to maintain any diplomatic relations whatever. We send missions abroad to propose to other nations terms of commerce, to facilitate commercial intercourse, to reduce tariffs, and thus prepare the way for the mutual enterprise of two friendly powers. Am I to be told that a nation like this, the richest save one upon the face of the globe, whose commerce is spread abroad over every sea, must suffer this highest interest of her citizens to languish, rather than appropriate the sum of \$38,000? This is all that is asked for this whole array of missions, which has excited so much solicitude in the mind of the honorable gentleman from Massachusetts. In reference to Governments where we have long had missions, and with whom we have extensive and valuable commercial relations, it is manifest we must have agents to watch over them. With respect to Belgium, I will tell the gentleman why as item for that Government has been inserted. It is well known that this country has had, for a long series of years, an important commerce with Holland. Belgium is a portion of what formerly passed under that name, but has been recently erected into a separate Government.

If our interests with the two portions of that country, when conjoined, were deemed worthy of preservation, why are they not equally so with each portion as now separated? Can it be that our interests with one of these Governments is not worth the expenditure of 4,500 dollars a year? And what is this new State of which the gentleman from Massachusetts speaks so contemptuously? It is a State which occupies one of the most important stations in Europe—the ancient theatre of continental wars, and the subject of complicated and protracted negotiations. The Belgian Government has sent its agents to us, intimating a wish that diplomatic relations should exist between the two Governments; and shall we, when the Government of so rich and fertile a country, possessing such a commercial port as Antwerp, and with which we already hold an extensive commercial intercourse, proposes to us the establishment of friendly relations, refuse to meet its advances, and put at hazard all the advantages we might gain, for the sake of avoiding the expenditure of \$4,500 a year?

I put it to the gentleman from Massachusetts, if we had received a Message from the President, stating that such a request had been made by the Belgian Government, but that he had refused to send any minister, what would that gentleman have said? Above all, what would he have thought and said had the President given as a reason for his determination that the mission would cost this country \$4,500 a year? We have now here a minister from Belgium; we have with that country a great and growing commerce; and this appropriation is for a mere charg . Suppose the money should be refused,

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and the advances of the Belgian Government repelled, will it not be a breach of the comity of nations? may it not lead to the interruption of our commerce? or at least to an augmentation of their tariff on our products? Would the President be justified in hazarding these consequences for the sake of saving an annual salary of \$4,500? What would be the judgment of every sober-minded man upon such policy? It would pronounce a merited sentence of unequivocal condemnation.

I come now to the provisions for the South American missions. I could not but feel a good deal surprised that the gentleman from Massachusetts should be the person to object to the appropriation for these missions, when he was himself at the head of that administration under which all the diplomatic relations we have with these States were originally instituted. Nor did we then, as is now proposed, maintain only a *chargé d'affaires* at these courts. When that gentleman's administration came into power, they found three full ministers commissioned to South American Powers; and, so far from their disapproving the arrangement, the honorable gentleman continued all these missions, and continued to fill them with ministers of the same grade. I mention this, not as any imputation against him. I know, indeed, that many unfounded censures were heaped upon him for this part of the policy of that administration. (I made many remarks upon it myself, which I should be glad of an opportunity to disclaim.) The committee doubtless recollect that one of the questions which then agitated this country was, whether this Government ought or ought not to recognize the independence of the South American republics. We did recognize it; and, in my judgment, we did wisely. Mr. Monroe, to give the greater effect to the recognition, sent ministers to those powers, as he had a perfect right to do. And it was certainly a sound line of policy. It was so on two grounds: first, as it tended to establish their independence; and, secondly, as it promised to extend our own commerce, and to secure to our citizens important advantages in trade. Such a connection with this country was viewed by those States themselves as an object of importance; nearly all of them applied for it; they were anxious that diplomatic relations should be established between us; and we conceded to them what they had asked for. Does the gentleman from Massachusetts recollect that the independence of those States has not, to this day, been recognized by the Court of Spain? and that the good offices of this Government have been exerted to effect that object? Are we to abandon the objects for which we instituted these relations in the first instance? Are we to disregard our community of interest with these States in a trade and commerce equally beneficial to both? And for what? To save a few thousand dollars. I said that our commercial relations were mutually beneficial to both parties. This, however, is true only to a

certain extent. The chief benefit is on our side. We had commercial objects to secure, in first instituting these missions. Those powers had none. They possessed little or no commerce; and what little they had was all contraband. And does the gentleman from Massachusetts think that a nascent commerce, still in its infancy, but rapidly increasing, does not need to be more assiduously watched over than one which has attained to the full vigor of established permanency? The gentleman cannot be aware that the possession of the rising commerce of those South American States is an object of earnest competition and rivalry among the European Powers. He must know that Great Britain in particular, from having been too open and unguarded in showing her extreme eagerness to secure the boon, has become the subject of extreme jealousy on that ground; insomuch that the republic of Central America, in particular, has become almost hostile to the British Government. Their commerce, fed, as it will be, by one of the richest countries on earth, is expanding in geometrical progression; and are we to abandon such an object for the pitiful sum of \$4,500?

With regard to the republic of Central America, continued Mr. A., so strong is the feeling of dislike towards the English that every facility is open to an advantageous treaty with this country. But it is very difficult for us, or any other power, to get a minister there, because such is the unhealthiness of the region through which they must pass, that the most of those who set out for that Court die upon their way.

I remember that this subject of the republic of Colombia occasioned a somewhat amusing scene in this House a few years ago. The whole House, including such men as my honorable friend from Massachusetts, was at that time wholly ignorant of the geography of this new State. One member inquired what were its commercial relations? And this led to an inquiry from another, as to what were its ports? or, whether there was a single commercial port belonging to that Government? None could answer these inquiries, because none knew with precision what were the territorial limits of that State. I did not know them—the Department of State did not. But I am now better prepared; and if the gentleman from Massachusetts wishes to propound the same inquiry he put to me on that occasion, I am in circumstances to answer it. Its ports are numerous, and its trade so important, that it is obvious to any one acquainted with the facts, that the avenues to that trade should be kept open to our citizens. But this can only be done by keeping up diplomatic relations with that Government at an expense the honorable gentleman seems to shudder at. It will cost us \$4,500.

Mr. ADAMS here interposed, to inquire why it was that, although the bill contained provisions for seven *chargés des affaires*, there was none for Colombia? The gentleman said our

relations with that republic were of such great value, how was it that, while he argued to show the necessity of our having a minister there, he had inserted no provision for one? Two years ago, indeed, it was true that this republic of Colombia could not be found; now it seems the gentleman had found out where it was. Why was it omitted in the bill?

Mr. EVANS said that it certainly was not proper that matters of so much consequence should be acted upon with so thin a House. He observed that many gentlemen would vote to go into committee at 12 o'clock, who never appeared in the House again till about 5 o'clock, when they came in to vote stoutly against the rising of the committee. He believed the gentleman from Virginia (Mr. ARCHER) was willing that the subject should be postponed, and he trusted that the gentleman from Massachusetts (Mr. ADAMS) would also consent to wait a little longer for the information he had asked for. He therefore moved that the committee rise, that the House might proceed to the business on the Speaker's table.

Mr. POLK requested Mr. EVANS to withdraw his motion; but he refusing to do so, the question was taken, and the motion was negatived—ayes 57, noes 75.

Mr. ADAMS said that, as the republic of Colombia had been discovered, why, he asked again, was it not named in this bill? The gentleman thought it a power of so much importance that we ought to send there a minister of the highest grade. Where was it? He did not read it in the bill.

Mr. ARCHER said that it was in the bill. The mistake was on the side of his honorable friend from Massachusetts. The republic of Central America had been broken into three distinct States, viz.: Venezuela, New Granada, and Ecuador. The Government did not ask for a mission to that country, and strange indeed it would be if it had done so. Mr. A. was told by our former minister there (Mr. Moore) that living at Bogota was very expensive, and the salary of even a full minister would be none too large; it was proposed, however, to allow for a chargé only. The gentleman would find in the bill an item for a chargé to Venezuela. So far was the Government from being chargeable with extravagance in its appropriations for South America, that the gentleman seemed now disposed rather to complain of it for having omitted to put more in the bill. When the item for Colombia had formerly been proposed, it was suggested as an objection that the whole republic did not contain a single seaport. This ground must now be abandoned; as, since the republic had been discovered, it had also been ascertained to possess many very important seaports. Mr. A. would take this opportunity of reading to the honorable gentleman a list of them, together with a statement showing the population of each of these States as ascertained from the best sources within

his reach; as also the trade, as taken from the last returns to the Treasury.

[The statement read.]

I have thus shown, said Mr. A., to the satisfaction, I trust, of the committee, and of my honorable friend from Massachusetts, first from the population, and then from the trade of this republic of Colombia, as now subdivided, that we ought to have diplomatic relations there, even though it should cost us the unconscionable sum of \$4,500 a year to maintain them. Although I am a great advocate for economy, and hope that the honorable gentleman will stand by his principle of never consenting to an appropriation till its propriety and necessity be shown, yet I am such a very heretic that I should be willing to sustain three *chargés des affaires*, one to each of these Governments, rather than jeopard our trade with this part of the South American continent: a country containing a dozen seaports, a population of four millions of people, and a commerce amounting already to four millions of dollars. With a disposition certainly not too friendly to the present administration, I yet cannot find it in my heart to say that, in this branch of the public service, they want to spend too much of the public money.

And now, sir, for Mexico. We had a full minister to that Government under the administration of my honorable friend from Massachusetts. We have now but a *chargé d'affaires*. This country possesses a commerce in imports of four millions, and in exports of three millions of dollars. Ought an interest like this to be exposed, unprotected, to the rivalry of other commercial nations, to avoid the annual charge of 4,500 dollars? I have heard it said that our commercial interests with the Mexican Government may be as well, or sufficiently well, protected by consuls. Suppose we had a consul there, could he supervise all our interests with that Government on a salary less than 4,500 dollars? We give our consuls 2,000 dollars. Would any man competent to the charge accept it on such terms? No, sir; if it is to be done by consuls, we must have them in all the principal seaports; and then their salaries will amount to more than is asked for this *chargé*. I say that to resort to a *chargé d'affaires* to the Government of Mexico is an expedient of economy; and the honorable gentleman ought to support rather than resist it. The opposite plan goes on a narrow view of economy, and whoever advocates it is mistaken as to the true interests of our commerce in the southern hemisphere. Commerce with old countries is, comparatively, a fixed thing; but with new countries, such as the liberated States of South America, it is quite a different thing; no man can calculate or conjecture the rapidity of its increase, or the greatness of its future amount. Now, there is not one of these southern Governments

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in which there is not, present and active, a rival interest to ours, seeking in every way to undermine us, and to obtain a commercial treaty to our prejudice.

As to this republic of Colombia: Great Britain, our great commercial rival, maintains a minister at Bogota, and gives him 80,000 dollars a year, besides a consul general with a salary of 10,000 dollars, and another consul at Carthagena. Are we, then, to shrink from the appropriation of 4,500 dollars, to counteract such opponents? What would be the consequence to the interests of this country, if Great Britain should succeed in establishing commercial relations with such a country as that, to her benefit and injurious to us? And what would be the blame inevitably and justly cast upon an administration that should permit such arrangements to be made before their eyes, for the sake of saving a poor allowance of 4,500 dollars a year?

There is one consideration which applies to all these South American Governments. It is more important that we should have diplomatic relations with them than with the Governments of the old world. In support of which position, it is sufficient to state that there is not one of them where our citizens have not pending claims for spoiliations; not, indeed, for vessels and cargoes taken upon the high seas, but for injuries done to us by seizures after our vessels had entered their ports. Suppose us to have no minister there, and these acts of unlawful violence should take place upon the commerce of our citizens, what remedy should we have? The citizen injured would make his protest. Should we send our demand for redress through a consul? The answer would be, we regret the occurrence, but our Government is too poor to compensate the loss. But if we had a minister present at their Court, either the injury would not be attempted, or one menace from him would be sufficient to prevent its being consummated. They know and dread the power of our navy. Why, sir, it is but to-day that I was told of a cargo worth \$200,000 which had been lost in this very way. Will not \$4,500 have been well spent, should it prevent but one such loss as that?

I have peculiar reasons for wishing to discharge my duty fully on this occasion, because it is the last time that I shall occupy the position I now fill in relation to the business of the House. I might have repelled the inquiries of the honorable gentleman from Massachusetts, by saying, simply, that our citizens had unsatisfied claims on all these Governments; and that it would be monstrous, under such circumstances, to refuse the appropriation of four thousand five hundred dollars to protect their interests. I might well be pardoned, did I express in stronger terms my surprise at the unusual mode of treating a bill for such objects, which has been pursued on the present occasion by that gentleman. He well knows all

the views I have stated. He knows them better than I, and his mind has been filled with the soundest conclusions in relation to the whole subject.

He will not deny that we ought to have diplomatic relations wherever we have extensive and valuable commerce; and, *par excellence*, with the States of South America. The very fact that the Governments of those States remain yet unsettled, and that the hand of a despotic anarchy clutches all that can be reached by transient power, is the strongest reason why it is expedient that we should have at the ear of each succeeding chief who rises for a day to the seat of power, a representative of this Government, who shall whisper in his ear, "Keep your hands off the property of my countrymen; if you touch it, I shall invoke a visit from our vessels of war: and, when they appear, you will have to relinquish all you take." Should an intimation like this reach the apprehension of any one of those mushroom despots who wield in succession the puny forces of those Governments, I pretend to say—yes, sir, I "take the responsibility" to predict—there is not one of them but would hold off his hand. Let him but understand that any one of the vessels of our gallant navy, be it but the smallest schooner, is within call, he will be careful how he touches American persons or property. And, although I profess to be as much the friend of economy as the honorable gentleman from Massachusetts, I do think that four thousand five hundred dollars will be well spent, if it save but one ship's cargo, or one American seaman, from the ruffian grasp of one of these puny potentates.

The gentleman from Massachusetts said, if I remember rightly, that, when President Monroe instituted these South American missions, the understanding was, that they were shortly to be dispensed with. If so, I ask, why did not the gentleman himself, who was Mr. Monroe's successor, dispense with them? I will assume the gentleman's answer to be this, as I doubt not it will be: that the interests of this country (and to those interests I always believed him to be honestly devoted, and am glad of having this opportunity to say so) forbade him to dispense with them. The reason was a sound one, and it is a sound one still; and sure I am that, were the honorable gentleman now at the head of the Government, he would not dispense with one of these missions.

Here are States occupying a region whose fertility, compared to that of other portions of the globe, is as Mesopotamia to the sands of Libya—filled with a people just broken loose from the bonds of political and commercial vassalage, and with whom all the Governments of the old world are seeking connections, both commercial and political; with whom we were the first to institute diplomatic relations, which relations the gentleman from Massachusetts was the first to ratify; and yet, he now finds

fault that a paltry sum of money is asked to keep up our connections with them. They are States whose independence we were the first to acknowledge; States whose commerce is destined to be the most extensive upon the globe; States who view the Governments that are competing for it with great and growing jealousy, and who entertain no such jealousy of us. And are we to throw away all the advantages of such a position? For what? Why, truly, because, if we retain them, they will cost us a matter of thirty-eight thousand dollars a year.

If we refuse to maintain diplomatic relations with these powers, there will not be a ship, or a vessel of any kind, which the honorable gentleman's fellow-citizens of New England shall freight with "notions," but will be exposed to the most imminent danger. Such political agitations and such lawless despotism prevail almost everywhere throughout that region, that no cargo will be insured but at an augmented premium. But if we have a minister who can interpose in time, and say to the miscreant who for the moment may hold the reins of power, and may be about to lay his hand upon the property of our citizens, "have a care; you know not to what you expose yourself; within my call is a naval force which, in a few hours, will batter your town about your ears," my word for it, our merchants may venture their goods in security. There is not the smallest vessel in our navy that may not defy these petty powers, and whose lightest threat will not be respected. And will you give up a rich and growing commerce, under such circumstances, on the sapient principle of saving thirty-eight thousand dollars?

Having made these general remarks in reference to the Government of Colombia, I come now to Mexico.

The gentleman asks why we propose to send a minister to the Mexican Government? I will tell the gentleman. We propose it for all the reasons which I have just given in relation to the Governments of South America. It is a country whose trade already has reached the amount, in imports, of four millions of dollars—and, in exports, of three millions. Its territory is nearly as large as our own; it possesses a soil of unrivalled fertility, and comprises the advantages of all climates and of all products. From these circumstances, it is obvious, not only that its commerce is destined to be great, but that this will happen in a very short time; and, from the affinity of their institutions to our own, we are warranted in the expectation that we shall be placed on the footing of the most favored nation. Besides this, we have now pending with that power a special negotiation on the subject of boundary. The propriety, and even necessity, of having the line which separates the two countries distinctly ascertained and permanently fixed, is manifest, as

being one of the best securities against dispute and collision with the neighboring Government; and, should we withdraw our diplomatic relations, after having commenced so important a negotiation, we shall expose ourselves to the liability of losing a large tract of one of the richest and most favored portions of the habitable earth. I say this deliberately; for if I were called upon to select any portion of the earth's surface which was fitted by nature to become the garden-spot of the globe, I should, without hesitation, point to the province of Texas.

I come, next in order, to the proposed *chargé d'affaires* to the Government of Buenos Ayres. The gentleman from Massachusetts intimated to the committee, as well as to myself, that the principal object he had in view, in urging the very extensive inquiry he has made, was founded on the special relations of the American Government to that of the Argentine Republic. On this subject I shall compress what I have to say into a short space. It is true, as the gentleman stated, that the brother of a colleague of his, who had been sent as our late minister to that power, (Mr. Baylies,) did aggravate the feelings of that Government in his communication with it on the subject of the Falkland Islands, and that such altercation arose as induced him to demand his passports and to return home; and the gentleman from Massachusetts asks whether this committee will consent, under such circumstances, to send another minister to that Government? In reply to this inquiry, I have to say that the salary is asked only as a contingency, and that there is not the least danger of a minister being sent out until a different state of things shall exist. There are reasons, however, to believe that a different state of things will exist. Almost immediately after the return of Mr. Baylies, an intimation was sent by that Government to the Department of State, that a minister should shortly be despatched to this Government, to resume the negotiations here; and it is but a short time since, that that assurance was repeated; and this Government is waiting for the arrival of such a minister, before it can decide what step shall be taken in the affair.

The gentleman from Massachusetts says that no minister should be sent on our part until the present state of things is changed, and in that position I entirely concur. But I say to him in reply, that a message, such as I have mentioned, justifies this Government in being prepared to send a minister to the Government of Buenos Ayres, in case that Government shall send their minister here. Suppose the Argentine minister should arrive in this country just after the rising of Congress, must the Executive wait until next session before he sends a corresponding mission on our part? Does the gentleman forget that we have large claims on that Government? And shall these be lightly jeopardized or abandoned? I have

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reason to believe that it is not the design of the Executive to send out a chargé until a minister shall arrive, but that, as soon as that takes place, one will be sent; and, on the subject of the claims of our own citizens, I have myself received several urgent communications during the present session. I admit, with the gentleman from Massachusetts, that, after a minister of the United States has been so treated, at any foreign Court, as to conceive himself bound, from respect to his own Government, to demand his passports and return home, it is not the Government of the United States who should renew the negotiation; but, unless the injury has been of a nature and an importance such as to justify war, is that a good reason why this Government should not be prepared to resume negotiations, when it can do so with self-respect? And should we not be even the more ready to do so? Supposing the agent of that Government shall come here and say, We regret what is past, and wish to re-establish friendly relations between the two Governments; and that the President shall say, in reply, I wish it too, but I have no means to re-establish any diplomatic intercourse, nor shall I till a whole year has expired. Does the gentleman wish to place our Chief Magistrate in such an attitude before a foreign Government? There is reason to believe that a minister is coming. And, in addition to that, let me say to that gentleman, that the subject which was the cause of difference between the two Governments has since then passed away. The ground of quarrel was an alleged aggression on the Falkland Islands; but now, if we want to have any controversy about those islands, we must go to London. On the whole, I say that it is eminently desirable that our difficulties with that power should be brought to an end, as many of our citizens have languished for years for want of the existence of diplomatic relations between that republic and our own. And we owe it to our citizens, if we do not to any one else, that those relations should be re-established as soon as it can be done with propriety. Were there but a single merchant whose property is at hazard for want of our being represented there, we are bound to relieve him, if it can be rightfully done.

Our missions to two of these southern Courts (Buenos Ayres and Chili) have been vacated; and, in respect to them, the inquiry of the honorable gentleman is entirely pertinent. Although we have nothing to do with the appointing power, we may with propriety inquire of the Executive, Why must you have money for this mission, which is now vacant? But I repeat now the position I before assumed, that, when an appointment has been consummated, we ought to put such an inquiry, unless we have reason to suppose that there has been some abuse. In that case, I freely admit that it belongs to this body, as the representatives of the people, to disregard the

etiquette of forms, and at once to interpose. But, where there is a vacancy, and the appointing power has not spoken, it is clearly competent for this House to say, we do not choose to grant the money.

I have explained as to Buenos Ayres; and now, in reference to Chili, the same reason holds respecting our important commercial relations with that power. We have the most growing trade with the Government of Chili that we now enjoy with any foreign country; a trade yet more worthy of being cherished than even that of Brazil, because it is in the important article of flour and bread-stuffs, the most valuable article grown by the people of the United States, and one of which the European market has, in a great measure, been lost.

This, sir, is all I have to say in reply to the inquiries of the gentleman from Massachusetts. I have done it in a way which I will say ought to be satisfactory to that gentleman and to the committee; for I will not indulge in that mock modesty which affects to be dissatisfied with truth and reason.

Mr. POLK observed that all the missions for which these appropriations were asked, were missions already in existence, and not now for the first time inserted in the bill. They were all for appointments which had been revised and approved by the Senate. Full and satisfactory explanations respecting them had been now submitted by the chairman of the Committee on Foreign Affairs. No motion had been made to strike out either of them. And as the bill had now been nearly gone through with, he hoped the committee would, without delay, proceed with the remaining paragraphs, when he should move, in the House, that the bill and amendments be printed and laid upon the tables of members. The discussion had been a very proper one, but he trusted it was now over, and that the bill would be brought into the House during the present sitting. He did not deny the right of the House to withhold the appropriation of salaries for foreign ministers; but it certainly required a strong case to justify such an interposition of its power.

Mr. ADAMS said that, if the inquiry he had proposed had produced no other effect than to obtain the explanations now submitted by the honorable chairman of the committee, he should have felt himself perfectly justified in having propounded it. Those explanations, he did not doubt, had been, in many respects, entirely satisfactory to the committee. They certainly had been, to a great extent, satisfactory to himself. His object had been to obtain them, because they were explanations which he could not obtain in any other way. I never intended, said Mr. A., to move to strike out appropriations in those cases where the missions were now existing. My object was in respect to all the items, save that for a mission to Buenos Ayres, to procure such in-

formation as might justify the committee in retaining them. But with respect to Buenos Ayres, I expressly stated that I considered that as a special case, differing essentially from the rest. And I must say, that the explanations given by the honorable chairman on that subject have not been satisfactory to me, whatever they may have been to the committee; and I therefore move to amend the bill by striking out both outfit and salary of a chargé d'affaires to that Government.

I stated that I made this motion on particular grounds. But, before I advert to them, I must notice one position taken by the honorable chairman at the commencement of his speech, which was a confirmation of the principle previously advanced by the chairman of the Committee of Ways and Means, (Mr. POLK,) viz.: that the burden of proof, in reference to an appropriation demanded for a foreign mission, rests not on the Executive who asks for such an appropriation, but on any member of the House of Representatives who may be opposed to granting the money. Now, sir, I protested against this assumption when it was first made by the chairman of the Committee of Ways and Means, and I am not satisfied with it as reaffirmed and now explained by the chairman of the Committee on Foreign Relations. And I will say of that gentleman, as he was pleased to say of myself respecting another matter, that he was the very last gentleman in this House from whom I should have expected this avowal of such an opinion. Why, sir, what is it? It amounts to nothing short of this—that, if the head of a Department shall come and ask this House for money, the House is bound, as of course, to give it to him, or to show that he does not need it. If that is sufficient, the Departments can get what money they please; for a member in this House is seldom in circumstances which enable him to prove that the money is not required. Nor can there be any distinction between the Departments in this respect. If one has it, they all have. It is very true, that it is a part of the Executive duty, by and with the consent of the Senate, to appoint foreign ministers, and that, when they have been so appointed, there is a sort of obligation upon this House, to make appropriations to pay them. But, on that subject, I have before me a resolution of the House of Representatives (which I had intended to use for another purpose) the principle of which applies to this case. An application had been made to a former President of the United States, by this House, to furnish the documents relating to an important treaty with Great Britain, commonly known by the title of "Jay's treaty." That treaty had been made in due form by the President, and ratified by the Senate, and it contained a provision for a certain disposal of money, which called for the action of the House of Representatives. Every one knows that the treaty was the subject of more contest than

almost any other measure in the history of this Government. A majority of the House disapproved of it, and they called upon the President for the correspondence and other papers in relation to it. President Washington declined complying with that call, and assigned for reason the very position now assumed by the honorable chairman, that the treaty having been made, the House was bound to appropriate the money, or to show that the appropriation would be improper.

[Here Mr. AROHER interposed, and said he had advanced no such principle. What he had said was, that when the President, with the consent of the Senate, had established a foreign mission, the House, as a co-ordinate branch of the Government, was bound to pronounce that it had been rightly done, unless very strong reasons existed to warrant an opposite conclusion, and was not bound to wait until the mission was proved by the Executive to be a fit and proper one.]

Exactly so, said Mr. ADAMS; it comes to the same principle in the end. The material passages of the communication from President Washington are in these words:

"Having been a member of the general convention, and knowing the principles on which the constitution was formed, I have ever entertained but one opinion on the subject; and from the first establishment of the Government to this moment, my conduct has exemplified that opinion, that the power of making treaties is exclusively vested in the President, by and with the advice and consent of the Senate; provided two-thirds of the Senators present concur; and that every treaty so made, and promulgated, thenceforward became the law of the land. It is thus that the treaty-making power has been understood by foreign nations; and, in all the treaties made with them, we have declared, and they have believed, that, when ratified by the President, with the advice and consent of the Senate, they became obligatory. In this construction of the constitution, every House of Representatives has heretofore acquiesced; and until the present time not a doubt or suspicion has appeared, to my knowledge, that this construction was not the true one. Nay, they have more than acquiesced, for, till now, without controverting the obligation of such treaties, they have made all the requisite provisions for carrying them into effect.

"As, therefore, it is perfectly clear to my understanding, that the assent of the House of Representatives is not necessary to the validity of a treaty; as the treaty with Great Britain exhibits in itself all the objects requiring legislative provision, and on these the papers called for can throw no light; and as it is essential to the due administration of Government, that the boundaries fixed by the constitution between the different departments should be preserved, a just regard to the constitution and to the duty of my office, under all the circumstances of this case, forbid a compliance with your request."

On receiving this Message from the President, the House took it into consideration, and came to the following resolutions:

"1st. *Resolved*, That, it being declared by the

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second section of the second article of the constitution, 'that the President shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur,' the House of Representatives do not claim any agency in making treaties; but that when a treaty stipulates regulations on any of the subjects submitted by the constitution to the power of Congress, it must depend for its execution, as to such stipulations, on a law or laws to be passed by Congress; and it is the constitutional right and duty of the House of Representatives, in all such cases, to deliberate on the expediency or in expediency of carrying such treaty into effect, and to determine and act thereon as, in their judgment, may be most conducive to the public good.

"2d. *Resolved*, That it is not necessary to the propriety of any application from this House to the Executive for information desired by them, and which may relate to any constitutional functions of the House, that the purposes for which such information may be wanted, or to which the same may be applied, should be stated in the application."

Here, said Mr. A., the House proceeds to deliberate on the expediency of fulfilling this treaty. But how could they have done so had they been foreclosed by the act of the President and Senate? or if the burden of proof was on them, and not on the Executive? Their application was for documents which were considered as the evidence of the propriety of the provisions of the treaty. The principle then assumed by this House has remained as an acknowledged principle of its action ever since. Even in respect to treaties, which are solemn compacts giving rights to foreign powers, the House has always insisted on having submitted to it the evidence of their expediency. The same principle applies to appointments — only with more force; for here there is no compact with a foreign power, nor any violation of faith, if the appointment shall not be provided for. The appropriation called for may be refused, and no injury ensue, which is not the case with treaties; and therefore this case is not so strong as that I have mentioned. I therefore am led to hope that the honorable chairman will reverse his opinion sustaining the position taken by the chairman of the Committee of Ways and Means, that the burden of proof lies upon a member of the House who opposes the grant of any money called for by the Executive department. It is the more necessary he should do so, as he knows the weight attached to his opinion by this committee. In my judgment, no more dangerous principle can be advanced, and none more threatening to the rights of the people. It is a principle I never can act upon. I may be satisfied by evidence more or less complete, or by my confidence in an executive officer, but I must call for evidence of some kind; nor can I permit myself to be told that, if I object to a grant of money, it is my business to show that it is not needed by the Government.

With regard to a great part of these mis-

sions, the information afforded by the honorable chairman is entirely satisfactory; particularly that in reference to Belgium. With regard, however, to some of the South American Governments, the information is not altogether satisfactory. Still, however, I do not think it would be proper to strike out any of the items which are designed for missions where our minister is now at his post. But I desire that when we shall come here, at the next session of Congress, the chairman of the Committee of Ways and Means, or whoever shall, in his place, transact business with the Executive department, will remember this debate; and that this House will adhere to its right to demand information whenever it is called upon to vote money for the use of Government.

As to the appropriation of \$4,500 which the honorable gentleman so often repeated, it is less than the dust of the balance to me in this matter. I never have risen, and never shall, in this House, on a mere question of money. It is the principle I regard.

Nor do I subscribe to another principle advanced by the honorable chairman, and on which his justification of most of these missions mainly rests, viz.: that because our citizens have commerce with these Governments, therefore we are bound to keep up diplomatic relations with them. Have we no commercial relations with the island of Cuba? Our commerce with that single island is equal to what we have with all seven of these South American republics.

[Mr. ARCHER here observed that we had a minister to the Spanish Government.]

True, sir; but we have at the Havana nothing more than a mere consular agent; and the presence of such an agent is found to be sufficient. He has no outfit; he has no allowance for goings and comings; he does all the business, and is glad to get his \$2,000; and that is the sort of representative we ought to have had with all these Governments, save that of Mexico. The mission to Mexico, I have already intimated, is, in my judgment, proper and necessary, and the information on that subject is to me entirely satisfactory. But when the honorable gentleman says that, because we have commerce with a foreign nation, we must therefore have a minister there as a matter of course, he introduces a totally new principle. We have always had two sets of relations with foreign nations, viz.: commercial and diplomatic; and it never has been assumed before, that, because we have the one, we must therefore have the other.

The gentleman's argument proves too much. According to the principle he lays down, we ought to have for this same republic of Colombia three ministers instead of one. When an appropriation was asked on a former occasion, I remember putting to the same honorable gentleman, then holding the same station which he now occupies, where the republic of Colombia was? and I think I never saw any person

in my life more perplexed to answer an ordinary inquiry. The gentleman went for information to the Department of State; and they could give him no information. All knew where it had been, but where it then was nobody could divine. A very intelligent gentleman from Louisiana, now no longer a member of the House, afterwards congratulated my friend on his discoveries in physical geography. It is no longer a question now, for the gentleman has given us a very full statement of its extent and all its ports. But it is not in this bill. There is provision here for a minister to one of the Governments into which it has melted. We have an item for a chargé to New Granada; and the gentleman has told us of two other Governments, one of Venezuela and the other of Ecuador. There was great difficulty, at the time I referred to, about the ports and harbors in this republic of Colombia. I told the gentleman that he seemed to be like the king of Bohemia, who had no seaports in his dominions. The gentleman was completely at a loss: he told us that it was absolutely necessary there should be an appropriation for a minister to the republic of Colombia: but the difficulty was to say where that republic was to be found. For myself, I did not pretend to be prepared to act, or to know any thing about the matter. There happened to be present, at the time, two very intelligent French gentlemen, commissioned by their own Government to travel through the United States, and collect information on the subject of our penitentiary discipline. One of them was afterwards in company with me, and, referring to the scene, said he had never been so highly entertained.

It amused him exceedingly to hear a member of a legislative assembly rise and ask where the republic of Colombia was! The difficulty, however, is now over. We do know where this lost republic is; or rather, where it was. Still I insist that the principle assumed by my friend proves too much, and thereby runs a great risk of not proving enough. According to his doctrine, we ought to have a minister in Austria; another in Venezuela; another in Ecuador; nay, sir, I should not despair, if he will allow me the help of any ordinary book of geography, to show him that we ought to have six thousand ministers, at the very least—a diplomatic body equal in number to our army. If we have not political relations with all these places, we have, at least, commercial interest sufficient, according to him, to justify, at any rate, the employment of *chargés des affaires*. Among others there is our sister republic of Hayti; she has manifested as strong desire to hold commercial relations with us as any Government on earth. Hitherto, indeed, we have always said "Hands off! We don't like your color." We have had no better reason; for we certainly have a very valuable commerce with Hayti; and our citizens have had

claims there. And further: I can tell the gentleman, we have had agents there to present and prosecute those claims, but the answer they got was, "First acknowledge our Government, and then we will talk with you about claims." But we have preferred sacrificing our claims to recognizing their existence as a sovereign State. It is a policy I have always approved; and I only refer to it now for the purpose of showing that our having large claims, and a valuable commerce with a foreign country, forms no valid reason why we must send a minister there. A well-qualified commercial agent would exert much more power in the Governments to which he had referred, than any diplomatic representative you can send, be his rank what it may. The chairman of the Committee on Foreign Affairs thinks the services of a diplomatic agent necessary to notify, with due solemnity, to any refractory foreign Government, the existence near at hand of negotiators in the shape of men-of-war. For my own part, I must confess that I retain some little regard for the constitution, and that I should prefer a resort to it to employing the guns of a frigate; as I apprehend the latter not to be the best of all means to get the allowance of private claims. To propose such a reliance was what I had not expected from the honorable chairman. I know the time when my friend was up in arms at the very idea of a President of the United States being at war with a foreign power without the previous action of Congress.

[Mr. AROHKE here interposed to say that he should be still.]

I have no doubt of it. But, then, what becomes of his argument? He would have a minister at these Governments to say "there is a seventy-four, or a thirty-six gun frigate." Well, sir, what then? Why, if they are not terrified by such an annunciation, he would batter down their towns about their ears. Sir, is that war? or is it peace? He is for going against the law of nations. He is for having peace or war according as the state of our commercial relations for the time being may, in the opinion of our minister, require. I say that I do not like this raising of our crest on every question of commerce that may chance to arise, and telling the Government of another country that, unless it is settled according to our views, we shall batter their towns about their ears.

And now I come to what was the principal object of my motion. I have said that the explanation given by the honorable chairman of the Committee on Foreign Relations, with respect to Buenos Ayres, was not satisfactory to my mind. And, in explanation of my views on that subject, I will ask the attention of the committee to a few other facts in relation to it.

Let me first refer them to the Message of the President of the United States to Congress,

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on the 6th of December, 1831, at the commencement of the first session of the last Congress:

"In the course of the present year, one of our vessels engaged in the pursuit of a trade which we have always enjoyed without molestation, has been captured by a band acting, as they pretend, under the authority of the Government of Buenos Ayres. I have therefore given orders for the despatch of an armed vessel, to join our squadron in those seas, and aid in affording all lawful protection to our trade which shall be necessary; and shall, without delay, send a minister to inquire into the nature of the circumstances, and also of the claim, if any, that is set up by that Government to those islands."

This expression, "I shall, without delay, send a minister," puts me in mind of what was once said by the predecessor of the present President—that he should send a minister to a certain Congress. When such language was used by *that* individual, it took both Houses of Congress months to decide whether he had violated the constitution or not. But we make nothing of these things now. It is not within my recollection whether Congress gave the President the force he asked for, or not. There was, at any rate, always force enough left. Soon after, a chargé d'affaires went to Buenos Ayres to settle our differences with that Government. He remained about the average time of our ministers continuing abroad—about six weeks; and he then came to what is considered a rupture between nations; that is, he demanded his passports and came home. We had, at that time, a consul there, who had had a voluminous correspondence with the Buenos Ayrean Government, which was continued by Mr. Baylies. That correspondence—I have it here in the Spanish language—was published by the Buenos Ayrean Government as a manifesto to the world against the honor of the United States. I do not blame our chargé d'affaires: I trust he did no more than what was called for to maintain the honor of his country; and that he had good reasons for demanding, as he did, his passports and leaving that Court. What I want is the certain knowledge that it is so. I want a communication from the Executive, explaining to us how the matter stands. That is the real ground of my motion. I think that this information has been improperly withheld; for it is now a year and a half since our minister returned. If the information is correct that he was in personal danger at that Court—as our consul certainly was in danger of his life, both from popular exasperation and from a capital offence charged upon him, as this pamphlet shows—we ought to know it.

At the last session of Congress, a resolution was adopted by this House, at my motion, in the following words:

"Resolved, That the President be requested to communicate to this House, so far as, in his opinion, may comport with the public interest, the correspondence between the Government of the United

States and that of the republic of Buenos Ayres, which has resulted in the departure of the chargé d'affaires of the United States from that republic, together with the instructions given to the said chargé d'affaires."

(For at that time it was possible to get through this House a call upon the Executive for information. It has been with deep regret I have found that it is very different now. I have been able, during this whole session, to get but one such resolution through.) And what was the answer? It was in these words:

"WASHINGTON, December 28, 1832.

"To the House of Representatives:

"I have taken into consideration the resolution of the House requesting me to communicate to it, so far as in my opinion may be consistent with the public interest, 'the correspondence between the Government of the United States and that of the republic of Buenos Ayres, which has resulted in the departure of the chargé d'affaires of the United States from that republic, together with the instructions given to the said chargé d'affaires;' and, in answer to the said request, state, for the information of the House, that although the chargé d'affaires of the United States had found it necessary to return, yet the negotiations between the two countries, for the arrangement of the differences between them, are not considered as broken off, but are suspended only until the arrival of a minister, who, it is officially announced, will be sent to this country with powers to treat on the subject.

"The fact, it is believed, will justify the opinion I have formed, that it will not be consistent with the public interest to communicate the correspondence and instructions requested by the House, so long as the negotiation shall be pending.

"ANDREW JACKSON."

It is now nearly eighteen months since, and the President has not merely refrained from communicating information as to the state of our affairs with a nation with whom we are at the point of war, but he has given us, when asked for it, a full and flat refusal. What has been the foundation of such a procedure? It is what the honorable chairman has now told us, that a minister was expected from that power. But no minister has been sent. The matter remains to this day just as it stood then; and now we are called upon to make appropriation for the salary of a minister to that very Court. It was a transaction, the nature of which ought to have been communicated to the House at that time. It was material that this House should know that the nation was nearly in a state of war. Our minister had demanded his passports; they were granted, he came home, and the whole controversy was published by that Government in this pamphlet. I cannot but observe that, if this is to be cited as an example of the manner in which the Executive treats this House, it will conduce but little to the preservation of harmony and mutual respect between co-ordinate branches of the Government.

I do aver that there is, in this pamphlet, matter which ought to have been communicated to Congress. The honorable chairman says he would not be the first to advance, after such a state of things had occurred. But what is the state of the case? A minister was expected eighteen months ago, and the same state of things continues still. For what are we asked for a minister's salary? Is he to go to the Court of Buenos Ayres, and ask pardon in our name for what our minister has done?

I say, again, that there is high matter in this negotiation. There are principles here very elaborately discussed, and an appeal upon them is made to the whole world. On what ground is it that we are asked to send a minister to the very Government which is thus accusing us before the whole civilized world? But it is late: and as I have said most of what I was desirous of saying to the committee, I will not longer intrude upon their time. With respect to the explanations given by the honorable gentleman in relation to the other powers, I am satisfied; but in relation to Buenos Ayres, I am not.

Mr. WAYNE said that the impatience of the committee, at hearing a speech at so late a period of the day, admonished him of the propriety of permitting the question to be taken. But the earnest manner in which the gentleman from Massachusetts (Mr. ADAMS) had urged his objections, induced him to submit one or two observations in reply to his views upon the power of the House to examine into the necessity and propriety of foreign missions which had been established in the usual form. In the cases put by the gentleman, he believed that there was no member of the House who doubted the right of the House to interpose their opinions. But a broad distinction existed between those cases and the present: here was a mission established and recognized year after year by the House. In these cases, nothing of the kind existed. The principle of the resolution introduced by the gentleman from Tennessee (Mr. POLK) upon the first of April, 1826, relative to the Panama mission, which have been alluded to, could not be extended to the present case. The object of that mission was not the usual diplomatic intercourse recognized by the laws of nations. It was there proposed to send ministers to a congress of nations; here it is merely proposed to continue a mission long since established.

Mr. W. replied to the other positions taken by Mr. ADAMS, with much force. The question was taken, and the motion to strike out negatived—ayes 19, noes 102.

The item providing outfits for a minister to Russia, and a chargé to Buenos Ayres, having been read—

Mr. AROHER moved to amend the clause by inserting outfits for chargés des affaires to Chili and Brazil; which was agreed to.

WEDNESDAY, May 7.

Claims on France.

The engrossed bill to extend the time to carry into effect the convention with France, being on its final passage,

Mr. WILLIAMS said he had no doubt but the commissioners had faithfully discharged their duty, so far as lay in their power. But it seemed there was a difficulty for want of evidence, which the French Government had refused to furnish. The gentleman from Virginia (Mr. AROHER) intimates that it was no part of the duty of the Chamber of Deputies to furnish this evidence. This was true; but how was the obligation on the part of the Executive Government of France?

Mr. AROHER said he was not aware that any obstacle had been interposed by the Government of France to the procuring of evidence. A question had been raised whether the French Government, or our own, should bear the expense of transcribing the archives necessary, but nothing prevented individuals from obtaining evidence but the expense.

Mr. WILLIAMS: If the Government of France was not to blame, the individual claimants were, for the delay in not furnishing evidence. The question before the House was, whether the time should be prolonged by the bill six months or twelve months. His object was not to interpose any delay, but to carry the whole subject forward to the next session of Congress, when the facts will have been fully ascertained. Where the blame for delay belongs, can then be known.

Mr. REED said that, in the law under which these commissioners were appointed as it was originally reported, the time was fixed at three years. At the solicitation of the claimants, it was reduced to two years. They had always been anxious to avoid delay. The truth was, there was no blame anywhere. It was impossible to tell until the cases were stated together, what evidence would be necessary. Sometimes there were a dozen or twenty separate claims arising out of different shipments by the same vessel. Each of these claimants could not ascertain beforehand whether the proof of condemnation was sufficient.

The question, on the motion of Mr. WILLIAMS to recommit the bill, was negatived.

The bill was passed, and sent to the Senate.

FRIDAY, May 30.

Resignation of the Speaker.

After the reading of the Journal—

Mr. Speaker STEVENSON rose and informed the House that he had taken the chair this morning, though still laboring under severe and continued indisposition, for the purpose of opening the House, and preventing any delay in its business; and likewise for the purpose of announcing his determination of resigning the

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Speaker's Chair and his seat in Congress. This he proposed doing on Monday next at 11 o'clock. He had formed this resolution under a deep sense of duty, and because his state of health rendered it impossible for him (as must be apparent to the House) to discharge in person the laborious duties of the Chair; and he had therefore deemed it respectful and proper to give this early notice of his intention to retire.

MONDAY, JUNE 2.

As soon as the Journal was read—

The SPEAKER rose and addressed the House as follows:

Gentlemen: I have attended in person to-day for the purpose of resigning, as I now do, the office of Speaker of this House, with which I have been honored for the last seven years, and of announcing to you the fact, that I have this day communicated to the Executive of Virginia my resignation as one of the representatives from that State in the present Congress. The dissolution, perhaps forever, of the intimate associations that have existed so long between us, is calculated to excite sentiments of a painful character. I feel it myself deeply and unaffectedly; and, in quitting a station in itself so honorable, one so repeatedly conferred, and in a manner so flattering; a station endeared to me by so many considerations of a private and a public nature, I hope I may be pardoned in availing myself of this fit occasion of taking my leave of it and of you in person; of offering you my cordial and best wishes for your individual prosperity and happiness, and expressing publicly, and for the last time, my grateful acknowledgments for the kindness and confidence by which I have been so long distinguished and honored. Few, probably, that have ever filled this chair, have enjoyed more of this kindness and favor than myself; none have received, or will cherish it with feelings of warmer and more devoted gratitude. My obligations, gentlemen, are, indeed, deep to this House, and go where I may, or in whatever situation I may be placed, I shall continue, to the last hour of my life, to preserve and cherish those sentiments of profound respect and affectionate gratitude which your long-continued and unchanging kindness have so deeply impressed upon my heart, and which never can be impaired.

The duty of presiding over a great deliberative assembly like this is no easy task. The high and distinguished character of such a trust, and its arduous and important functions, cannot fail to inspire any incumbent with a just distrust of his own abilities and qualifications, whatever they may be. My administration of its duties for seven years, has not only taught me to know and feel this, but likewise to know how difficult, nay, impossible, it is for any man to free himself from error or censure in this chair, or give unqualified satisfaction. In times of profound tranquillity and repose, with united and harmonious councils, this has rarely, if ever, been done; amid the strife and storms of political and party excitements, it would be vain and hopeless to expect it. My period of service has, moreover, gentlemen, as many of you know, been distinguished by events especially calculated to render this station one of more than ordinary delicacy and embarrassment, as well as of increased responsibility and labor. How

assiduously I have struggled to discharge the duties of this chair, in a manner worthy of it, and of myself; with what sincere zeal I have devoted my time and my talents, and even my health, to your service, I leave for others to decide; but this I hope I may be pardoned for saying, in justice and fairness to myself, and under a deep conviction of its truth, that I have endeavored to discharge my duty, not only with temper, justice, and moderation, but with a just regard for your individual rights and feelings, the character and dignity of this House, and my own honor. This was all that I promised when I came to this chair, and this I have endeavored to do; with what success I leave to you and to my country to determine.

I am very sensible, gentlemen, that, in such a long course of public service, and in an independent discharge of the arduous and multifarious duties of this chair, regardless of whom it might please or displease, my conduct may sometimes have been thought too harsh and rigorous; and I may often, unintentionally, have wounded the feelings of individual members upon this floor, and incurred their censure and displeasure. Under such circumstances, and while man continues what he is, we know that personal resentments are too apt to be indulged and to remain, and often perhaps difficult to be extinguished, even in the noblest minds; but revenge will not harbor there—higher principles than resentment, and better principles than revenge, will animate men whose thoughts and hearts are liberal and enlarged, especially where there is high intellectual ability and moral integrity. If, then, under the influence of momentary excitement and passion, if in the eagerness of controversy or the commotion of debate, any thing unkind or harsh should have been said or done, either on my part or on yours, let us, I pray you, forgive and forget it, and let us separate in the spirit of peace and good will. Let not this moment of our final separation be poisoned or embittered by feelings of personal resentment or political hostility. Let the spirit of peace and charity shed its holy calm around us, refreshing alike to the affections and the intellect, and let us blot from our minds and hearts every feeling of personal or party resentment, and separate like brethren of one household, and as the representatives of a free and virtuous people. I have myself no injuries to complain of, and no memory for them if I had; I came here to gratify no private friendships, to indulge in no personal hostility; and all that I have now to ask of you is to do justice to the motives which have governed me, and, when I am gone, to protect my character as the presiding officer of this House, which may now be regarded, in some measure, as the property of my country, from all unjust and unworthy imputations. To those who have known me longest and have known me best, to the liberal and just of all parties, and on all sides of this House, this appeal, I flatter myself, will not be made in vain.

One word more, and I have done. Although I am about to leave you, gentlemen, I shall never cease to regard this House, and every thing connected with it, with feelings of the deepest solicitude and affection. I need not remind you of the character and station which this House holds in the eyes of the American people. They justly regard it as the sanctuary of liberty, and law, and order; and justly repose on it with unlimited confidence and affection. In its deliberations and proceedings is essentially involved the security of our free institu-

tions. How much, gentlemen, will depend upon the manner in which its high duties shall be performed. Nor is it needful, I am sure, that I should admonish you that you are the representatives of our whole country, and not of a part; that our confederation can only exist and prosper under the influence of a wise, equal, and just system of legislation; by the ties of common interest and brotherly affection; by a spirit of mutual forbearance and moderation; and by cherishing a hallowed devotion to that liberty and union secured to us by the blood of our common fathers. These are the foundations upon which alone our safety and security can rest.

Although our country of late, gentlemen, has been deeply and painfully excited, and our councils too greatly divided, may we not hope that the causes of excitement are daily passing off and subsiding, and that peace and tranquillity will again be restored to us? At such a time, and under such circumstances, is it not the duty of every wise, and liberal, and good man, in public or private life, without distinction of party, to unite for the purpose of healing these divisions, and giving peace and repose to the public mind? And should not those, especially, who wield the public councils, pour oil upon this stormy sea, and still its troubled waters? I invoke you, gentlemen, to peace and harmony: to union and action for the common good. The people expect it; the prosperity and happiness of your country demand it. God grant that you may prove yourselves worthy of the high trust, and equal to the crisis; and that your labors may ultimately prove successful in giving peace and repose to our beloved country.

This is the last time that I shall ever address you from this chair; we separate this day, many, very many, of us, to meet no more. I pray to God to protect and bless you and our country; and I tender to you this my last and affectionate farewell.

After Mr. STEVENSON had concluded, and retired from the chair—

Mr. MERRICK moved that the House do now proceed to

The Election of a Speaker.

The motion was seconded by Mr. WILLIAMS, and the question being put by the Clerk of the House, the motion was agreed to.

Thereupon, W. S. FRANKLIN, Clerk of the House, nominated Mr. MCKINLEY, Mr. FORESTER, Mr. E. WHITTLESLEY, Mr. SCHLEY, Mr. MUHLENBERG, and Mr. BYNUM, to act as tellers.

The balloting having proceeded, and the ballots having been counted, the result of the balloting was: For JOHN BELL 114 votes, 110 being necessary to a choice—

Whereupon, the honorable JOHN BELL, of Tennessee, having received the votes of a majority of the House, was declared duly elected Speaker. Messrs. J. Q. ADAMS and R. M. JOHNSON conducted the Speaker elect to the chair, when he delivered the following address:

Gentlemen of the House of Representatives:

With the greatest sincerity I declare to you, that although I am duly and gratefully impressed by this mark of the partiality and confidence of the House, and by no means insensible to the distinction intended to be conferred on me it is not without some

distrust of the wisdom of my course in accepting this station, which your choice has assigned me. Without the slightest experience in the chair, it may be justly apprehended that your selection of a presiding officer has been too much influenced by personal kindness and friendship. And I shall be quite happy if the public interest shall suffer no detriment through a defective administration of the duties of the chair. In ordinary times, and under ordinary circumstances, I could flatter myself that, by diligent application, I might be able, in a short time, to supply the want of experience, and to justify, in some degree, the confidence indicated by the House. That more than usual embarrassments must be encountered at this moment, by any incumbent of the chair, will be admitted by all. The impatience, not to any irritation—the natural result of a protracted session—the excitement growing out of those sharp conflicts of opinion upon questions of public policy—conflicts exasperated and embittered at the present moment in an extraordinary degree—all present themselves to increase the difficulties and call forth the exertions of a new and unpractised incumbent of the chair. And I feel, gentlemen, that whatever exertions may be made on my part must be vain, without your forbearance—nay, that they must fail altogether, without your cordial support and co-operation. When I reflect how great are the interests connected with this House, its character and action—interests not of a day nor of a party, but of all time, of posterity, and of all the parties which are or ever will be arrayed against each other—and when I further reflect how much the character and action of this House depends upon a skilful, firm, and impartial administration of the duties of the chair, I confess I feel the deepest solicitude.

It is not so generally understood, I regret to believe, as it should be, in how great a degree the measures of a legislative assembly are modified and influenced by the manner of its deliberations. All will concede that if it shall ever happen that this body shall fall into disrepute, and fail to command the respect and confidence of the people, our institutions will be in the greatest peril. Not only the character of the House, the wisdom and efficiency of its action, but the existence of our admirable frame of polity itself, may be said to depend, in some degree, upon the order and dignity of the deliberations of this House. While, then, I entreat the indulgence of the House to my own defects, I earnestly invoke the assistance of every member of it in endeavoring to maintain and preserve, so far as depends upon the proceedings of this body, those great and primary interests of constitutional Government and freedom, in support of which, I am sure, whatever difference of opinion there may be upon points of construction, policy, or administration, there is not a heart here, nor an American heart anywhere, that does not beat high.

And then the House adjourned.

WEDNESDAY, JUNE 4.

Diplomatic Correspondence Distributed.

Mr. E. EVERETT, from the Joint Committee on the Library, reported the following joint resolution:

Resolved by the Senate and House of Representatives of the United States of America in Congress

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Custody of the Public Money—Mr. Wise's Resolutions.

[H. OF R.]

assembled, That the copies of the selection of the Diplomatic Correspondence of the United States, between the peace of 1783 and the 4th of March, 1789, published in virtue of an act of 8th of May, 1832, in continuation of the Diplomatic Correspondence of the Revolution, be distributed and disposed of, under the direction of the Joint Library Committee, in the manner following, viz.:

To each person who received a copy of the Diplomatic Correspondence of the Revolution, and who shall apply to the Clerk of the House of Representatives for the continuation of the same, one copy.

To the Library of each institution to which a copy of the same was sent, one copy.

To Jared Sparks, editor of the Diplomatic Correspondence of the Revolution, one copy.

To Edward Livingston, under whose direction, as Secretary of State, the selection aforesaid was made, one copy.

Sec. 2. *Be it further resolved*, That twenty-five copies of the work aforesaid, and of any work or works printed by order or at the expense of the United States, shall be placed at the disposition of the Joint Library Committee, to be by them disposed of in return for donations to the Library of Congress.

The resolution was read twice, and the question being on its engrossment for a third reading.

Mr. McKAY inquired if there would be a sufficient number of copies to give one to each person who had received the Diplomatic Correspondence published by Mr. Sparks?

Mr. E. EVERETT replied that there would not only be enough, but that there would a surplus, which was to be deposited in the Library of Congress.

Mr. CLAYTON remarked that, if it was intended to have these books distributed among the members of Congress, as Spark's Correspondence had been, he must oppose the resolution, and call for the yeas and nays on the question of engrossment.

Mr. E. EVERETT replied that, as they were a continuation of the Diplomatic Correspondence published by order of Congress, they were to be distributed to those persons to whom Congress had ordered the former part of the work to be given.

Mr. STEWART inquired if this work was not already published and lying at the State Department for distribution?

Mr. E. EVERETT responding in the affirmative, The question on the engrossment was then put, and decided in the affirmative—yeas 110, nays 87.

MONDAY, JUNE 9.

Custody of the Public Money—Mr. Wise's Resolutions.

The House proceeded to the consideration of the memorial from the inhabitants of Gloucester county, Virginia, praying the restoration of the deposits to the Bank of the United States. Upon which memorial Mr. WISE had,

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on a former day, moved the following resolutions:

Resolved, That the custody and control of the moneys of the United States, not appropriated by law, and not disbursed under appropriations by law, are, by the constitution, placed under the order and direction of the Congress of the United States; which order and direction must be made by law, in the form of bills or joint orders, votes or resolutions, upon which the President of the United States has simply the power of a negative, subject to a vote of two-thirds of each House of Congress.

Resolved, That no change of the Constitution of the United States is necessary to authorize the Congress of the United States to intrust the custody of the public money, not appropriated by law, and not disbursed under appropriations by law, whenever or howsoever obtained, to other agency than that of the Executive department; and that the custody of the public money must not be necessarily, under the constitution, intrusted to the Executive department.

Resolved, That Congress can take out of the hands of the Executive department the custody of the public property or money, without an assumption of Executive power, or a subversion of the first principles of the constitution.

And that said committee be further instructed to report such measures as it may deem necessary and proper to provide for the future safe-keeping, control, and disposition of the public property and moneys, and to assert, maintain, and protect the constitutional powers of Congress over the public property and public purse.

Mr. WISE addressed the House.

Mr. Speaker: This memorial, which I had the honor of presenting, from a highly respectable and patriotic portion of my constituents, calls upon Congress to vindicate its own constitutional powers, the supremacy of the laws, and the rights of the people. Such I consider to be, and such I regard as worthy of being, its chief object; to attain which I have moved its reference to a select committee, with instructions to report the resolutions which have been read to the House.

Sir, these resolutions affect the theory of our Government, and that theory solves the great problem of constitutional freedom and of popular self-government. Their importance may not be so striking to others, but it is overwhelming to me. When I approach their consideration, I feel, with unaffected sincerity and humbleness of spirit, the vanity of my undertaking the momentous task of their support, and cannot but regret that they are mine, and not the foster-child of some able, wise, experienced, influential, and distinguished father of legislation. There are men in this House, to whom I could say "*Te duce!*" and that which in my hands is weak would be strong—that which is insignificant would be big with importance—that which is abstract would be practicable—that which is nugatory and idle, merely declaratory and vain, would be powerful to make ambition withdraw its pretensions to power, or "to the pulling down of strongholds," if its pretensions to power are pressed. There are

men here, I say, who already occupy an eminence to which I would ardently aspire—the high stand of virtue and wisdom above selfishness and ambition, or pride and patriotism above party and place, of usefulness to the country above subserviency to an administration, the elevated stand of the statesman above the grovelling level of the politician. My aspirations may be as vain as I know they are unfashionable at this day; but I have assumed the task, the risk of a failure; and, though I be unsustained, and not countenanced even in the attempt, I will endeavor to supply in zeal what I may lack in ability, to defend these resolutions, to demonstrate their present importance by their necessity at the present time, and to illustrate their truth for all time to come.

Am I to be told again in the outset, Mr. Speaker, that these resolutions have no legislative action in view; that they are merely declaratory; and that the abstract truths they assert none will deny? He has read English and American history in vain, or has read neither at all, who seriously raises this objection, or cannot answer it, when raised, at a moment's warning. I will not stop here to enumerate any or all of the precedents, or the incalculable effects of precedents, for the mere declaration of powers and rights: from the "saying of the hardy barons of old, *nolumus leges Angliæ mutari*," to Magna Charta: from Magna Charta itself, through the various revolutions of British ministry to that glorious Revolution which begat the first true declaration of freemen's rights on this continent: from that to protest from protest, remonstrance from remonstrance, from declarations to deeds following during the Revolution: from independence to the constitution, and thence to the resignation of power by the father of his country when he told us, in his farewell address, "frequently to recur to fundamental principles:" thence to the period of '98 and '99, when the declaration of the State Legislature of Virginia that the alien and sedition laws were unconstitutional and void produced their repeal: thence, through all the declaratory resolutions offered or adopted in relation to the powers of Congress up to this time, when thousands call with an authoritative voice on Congress, to vindicate, maintain, and protect its own constitutional powers, with their liberties involved, rudely attacked by flagitious abuses of power, and still more flagitious pretensions to power by those who now unlawfully hold the power to enforce their claims! Sir, it is enough for me to know and to say that, in all cases where the people, in their primary assemblies or through their representatives, have seen fit to make such declarations, they have been induced to do so either by open or insidious, direct or indirect, attacks upon their rights, or upon the form of government which they had instituted as the palladium of their liberties. They have always had cause

for such acts, and their object has invariably been a redress of grievances.

Is there no reason for a declaration of powers and rights by the representatives of the people at this time; and is there no object in view? That is the question. Am I to be told that "the people" do not call for such acts of supererogation by Congress? I will not stop here to inquire who now are the people—those for or against the administration; but I will answer the question put to me by asking another. If the people do not call, are we to sit here whilst the Capitol is in flames, until the people first cry "fire!" Is our federal constitution as impervious to encroachment and violation as this building is to the devouring element? Are we not sent here as vigilant sentinels of the people, to see first, to hear first, to know first, and then to warn our masters that their property, their political estate, is in danger of destruction? I repeat the question, then, has the time again come when we ought "to recur to fundamental principles?" I say it has; and I am told to say so by my constituents, whom it is my pride and pleasure to obey, and to whom I can pay no better compliment than by saying that, with the instinctive prescience of coming danger to free institutions, inspired by the spirit of liberty in freemen of every land, their memorial was ominously draughted in old Gloucester before the protest was concocted in the cabinet, and reached me here before the attack of the President reached the Senate. Sir, it came none too soon; for, by the time of its arrival, there was a reason ready for these resolutions which now have an object of vital importance. As simple, isolated, abstract, fundamental propositions, all that can be said of them is, that they are true, have been written, and need not, in ordinary times, be re-written: but, in these times, as negating the claims of the President's protest to Executive power—to all power—more may be said of them. I will say it, though it is particularly painful to me.

Sir, however anticipated by others, who never had any confidence, the protest was unexpected to me, and shocking and alarming to me, who had not quite lost all confidence in this administration. It is an appeal from the Senate to the people, to obtain from them a confirmation of the President's claims to powers derogatory to those of both Houses of Congress. Such an executive document is the reason or cause of these resolutions, and to deny and defeat it is their object. The reason is more than sufficient; the object, whether it be obtained or not, is more than sufficiently important; and the effect of these resolutions will be, if no other, to exclude a conclusion which may be very serious hereafter. I am for denying and refusing this claim, lest, in the progress of usurpation, it may again be advanced, and then argued in its behalf that Congress, at this time, had acquiesced in its validity. I am for losing no rights by laches, and espe-

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cially none as vital, sacred, and unalienable, either by silent consent, lapse of time, or otherwise, as those involved in these resolutions. They do not intend to meddle, in any manner, with the various questions in controversy between the Senate and the President. In a contest between them, as to their executive relations, this House has no right of interposition; but we are bound, in duty to ourselves, the constitution, and the people, to protect our own powers when trenching on either by the President or the Senate. And the President having openly advanced claims to powers which belong of right to Congress, of which this House is a constituent part, and having appealed to the people to sustain him, we ought, without delay, to defend our rights, powers, and privileges, in like manner, before the people; to deny, before them, these executive pretensions; and to appeal to their reason and judgment, to obtain a decision of the case in our favor. I say, sir, we ought to join issue, instant, with the protest, as to the constitutional powers of Congress, but as to them alone.

But, perhaps, we may be told that, however ready we may be to join issue with the protest, neither the President nor the protest will join issue with these resolutions. We must first apply to the judges, then, to compel a "*similitudo*." Does the protest not affirm, "*in totidem verbis*," the propositions which these resolutions negative?

There are two paragraphs of the protest which, in themselves, constitute a distinct political essay, independent of, unconnected with, and not explained, restrained, or qualified by, the preceding or subsequent context. They are in themselves a whole, and contain the most of the poison for which these resolutions are intended as the antidote. I quote, sir, from the 9th page in pamphlet form:

"The custody of the public property, under such regulations as may be prescribed by legislative authority, has always been considered an appropriate function of the Executive department, in this and all other Governments. In accordance with this principle, every species of property belonging to the United States, (excepting that which is in the use of the several co-ordinate departments of the Government, as means to aid them in performing their appropriate functions,) is in charge of officers appointed by the President, whether it be lands, or buildings, or merchandise, or provisions, or clothing, or arms and munitions of war. The superintendents and keepers of the whole are appointed by the President, responsible to him, and removable at his will.

"Public money is but a species of public property. It cannot be raised by taxation or customs, nor brought into the Treasury in any other way, except by law; but whenever or howsoever obtained, its custody always has been, and always must be, unless the constitution be changed, intrusted to the Executive department. No officer can be created by Congress for the purpose of taking charge of it, whose appointment would not, by the constitution, at once devolve on the President, and who would not be responsible to him for the faithful performance of his

duties. The legislative power may undoubtedly bind him and the President, by any laws they may think proper to enact; they may prescribe in what place particular portions of the public money shall be kept, and for what reason it shall be removed, as they may direct that supplies for the army or navy shall be kept in particular stores; and it will be the duty of the President to see that the law is faithfully executed; yet will the custody remain in the Executive department of the Government. Were the Congress to assume, with or without a legislative act, the power of appointing officers independently of the President, to take the charge and custody of the public property contained in the military and naval arsenals, magazines, and storehouses, it is believed that such an act would be regarded by all as a palpable usurpation of the Executive power, subversive of the form as well as the fundamental principles of our Government. But where is the difference, in principle, whether the public property be in the form of arms, or munitions of war, and supplies, or in gold and silver, or bank notes? None can be perceived, none is believed to exist. Congress cannot, therefore, take out of the hands of the Executive department the custody of the public property or money, without an assumption of Executive power, and a subversion of the first principles of the constitution."

These paragraphs I propose critically to analyze, and patiently to extract their meaning, under every modification, according to a fair and even charitable construction.

The first is confined to a simple statement of facts. And, sir, that it "has always been, heretofore, considered" expedient for Congress to make an Executive department, by law, the agent for keeping the public money, I will not deny; but how recent events may have changed public opinion on that point even, I will not take upon myself to determine. Again: that "every species of property belonging to the United States, excepting that which is in the use of the several co-ordinate departments,"—(Query: how long will this exception be allowed?)—"is in charge of officers appointed by the President," is a fact which I am not only obliged to admit, but have much reason to deplore. And further, that "the superintendents and keepers of the whole are appointed by the President," (it should be added, "by and with the advice and consent of the Senate," but that advice and consent has not yet been had and obtained to the most important appointments,) "responsible to him, and removable by his will," are facts and truths which I have admitted under the existing laws, in a former debate on a former occasion. I then contended, as I now contend, that "the legislative branch of the Government as clearly has the power, by the constitution, to take care of the public moneys of the United States, as it has to appropriate them by law; and that it can no more delegate the one power than the other. But Congress having by law created the head of an Executive department, and his subordinate officers the agents for keeping the public moneys, that head and the officers of his

department are responsible to the President." And, sir, lest I may not have been understood then, I will here explain my views of the extent of the responsibility of the officers in the Executive Departments to the President of the United States. Whenever the laws imperatively require an act to be or not to be done, or to be done in a particular manner, by these officers, the President, within the sphere of the executive branch of the Government, but there alone, is constitutionally bound to "take care" that such acts "faithfully" are or are not done by such officers, and in the manner prescribed by law. These officers are thus far responsible to the President, because he is responsible for their acts in every sense of the word. He is "answerable" and "accountable" for them as they are to him, because there is an obligation of duty imposed upon him, by the constitution, which he is capable of discharging, and which if he does not faithfully discharge, he is liable to impeachment, as may be illustrated by a variety of cases.

Thus, if Congress had enacted that the public moneys should be kept in the Bank of the United States without any discretionary power of removal whatever, given to the Secretary of the Treasury, and the Secretary of the Treasury had removed them, with the knowledge of the President, and embezzled them, the President would certainly have been impeachable for permitting a violation of the laws, when he had the power of removing the officer thus guilty of a breach of trust. I presume there would have been but one opinion, especially with the opposition, on this point. But where the laws are not imperative, merely permissive, that an executive officer may or may not do a particular act, where a discretion is vested in him, the President has not the power to substitute his own discretion in the place of that designated by law; because in this Government his will is not, like that of a king, the will of the nation. No officer is the keeper of his conscience, and much less is he the keeper of the consciences of others. He can in no case be held responsible for the exercise of another's discretion; and the responsibility to him from the officer is founded on his responsibility as described to Congress for the officer, and not, as is contended, on the power of appointment. He appointed many officers, judicial and ministerial, such as judges and marshals, for whose acts he is in no sense responsible. In this, then, in my opinion, consisted the abuse of power in the removal of the deposits: that the President exercised the legitimate power of removal for the illegitimate purpose of virtually substituting his own discretion in the place of that appointed by law.

With the first of these paragraphs of the protest, then, understood as I am willing to understand it, I perfectly agree. It goes no farther than to state the previous and present fact, that a Department of the executive branch of the Government has always been, and is now

made by law, the agent for keeping the public moneys. But from this step, as to what "always has been," and is now, it will be found, in the subsequent paragraph, that he advances another step, trampling directly upon the constitution, to what "always must be" the keeper of the public moneys.

Sir, the proposition is, "that, no matter how or when the public money is obtained, its custody always has been, and always must be, unless the constitution be changed, intrusted to the Executive department." Now, it will be observed, that the first part of this proposition is but the mere repetition of the idea or fact contained in the paragraph already commented on. The precedent of what "always has been" done is made the stepping-stone to a claim of constitutional right; and what was said in the first paragraph was but the preparation of the mind for what is to follow. Sir, "he who runs may read" this proposition, to which we have seen the preceding context directly leads, and was intended to lead; and now, I ask, whether this broad claim of executive power is lessened, qualified, or mitigated, in the least, by the subsequent context?

As the preceding context is the groundwork of this pretension, so the subsequent is the superstructure. Be patient, sir, whilst I search for the truth. What is the next sentence! "No officer can be created," &c. Am I, is any one who ever dreamt of logic, to be told that this is any qualification of the first position assumed? Sir, it is the very "why and the wherefore" that the custody of the public money "always must be intrusted to the Executive department."

What next? "The legislative power may undoubtedly," &c., "they may prescribe in what place," &c. And is it here that any qualification is to be found? Well, sir, I must candidly confess that I would be thankful to his most gracious—no, sir, no! not majesty!—for that little, "to prescribe the place and the reason for removal from one place to another!" Yes, and we have even the generous admission that it would be the duty of the President to see that this prescription should be complied with! This is gracious, most gracious, and I was about to take the little that was left me, and "be off with it; but"—but! ay, yes, sir, I am tantalized by a dash, and told, "yet will the custody remain in the Executive department of the Government!" It is even so, sir; you may say where the public money shall be kept, but "remember! ay, remember, that I am to be keeper!" Is not such a qualification upon qualification as this enough to fret a freeman? If this be qualification, it aggravates the monstrous offence committed; adds insult to injury, and enrages the mind of him, if he has any mind, to whose soul, if he has any soul, it is meant to be "a flattering unction." Sir, it reminds me of the old common-law notion of the relation between a bail and his principal. The old books tell us that the bail holds his

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principal by a string, which he may pull at any time. And, in the language of my honored preceptor of the law, let him wander where he may, "at each remove he drags a lengthened chain." So with the Executive and the Treasury: if the public money "should take the wings of the morning," or of the law, "and fly to the uttermost parts of the earth," still there would the strong arm of executive power hold it; and "if it should be cast into the depths of the sea," still there would it be overshadowed by executive guardianship, attributed with ubiquity, and regulated by no law. Sir, it reminds me of an expression often used by an old acquaintance of mine, whom I often see in this city, about his "sweetheart." The Treasury may be well called the "sweetheart" of this administration—"ubi," treasury, "ibi," Executive department! Such is the sum and substance of this qualification!

How can any one insist upon this qualification, when the next three sentences expressly affirm that, "were the Congress to assume, with or without a legislative act, the power," &c., "such an act would be regarded by all as a palpable usurpation of executive power," &c., and that there is no difference, in principle, *quoad hoc*, between the different species of property—"arms, munitions of war, and supplies, or gold and silver, or bank notes!" I am justified, then, in saying, that the whole context, antecedent and consequent, instead of explaining away, limiting or restraining the position that "the custody of the public money always must be, unless the constitution be changed, intrusted to the Executive department," does, in truth, illustrate and enforce that position.

If the expression was, "unless the law be changed," there would be some room for cavil; but the constitution, "with or without a legislative act," is made the foundation of this claim, which is pursued by the regular steps of regular reasoning. Facts are stated; a position is assumed, illustrated, and enforced; and, lastly, the problem is solved, and the process of reasoning is terminated by the "*quod erat demonstrandum*"—"Congress, cannot, therefore, take out of the hands of the Executive department the custody of the public property or money, without an assumption of executive power, and a subversion of the first principles of the constitution." Such is the protest itself, explained by itself.

But, sir, we are told that there is a codicil to this will; that there is a protest against this construction of the protest; an "explanatory message," which retracts these doctrines, and modifies this dangerous and alarming claim to power. *Quare de hoc?* Sir, if this second message had retracted the abominable heresies of the protest, and if I could be convinced that the President had revised, and corrected, and withdrawn its offensive matter, I would sit down in humble rejoicing that "the man of my choice" had not intentionally committed this political sin, bringing with it political death.

"Nothing is so painful to the pure mind as to think those it highly esteems have acted unworthily; or nothing so grateful as the assurance that they merit the esteem we have been induced liberally and confidently to bestow." And my friend from Pennsylvania, (Mr. McKENNAN,) from whom I was justly proud to receive a compliment the other day, never said aught more just or true than when he said I was the "sincere friend" of the President. I say, sir, if I knew that the introduction of these resolutions had caused him to be conscious of, and to atone for, this error, my labors of this session would be more than amply rewarded; my pride, my ambition, my heart would be more than gratified. But when I look to this explanatory message, and contemplate the spirit which pervades it, all my senses and all my soul rise up in rebellion! The expression "that certain passages contained in his message and protest may be misunderstood," is an insult to my understanding; and when he says "that such a construction" as I have put upon them, "is not warranted by any thing," I am more than half convinced that there was a settled and subtle intention, on the part of his advisers and amanuensis—I cannot yet believe on his part—to gull, deceive, and enslave the people. Sir, no one can misunderstand these "certain passages" in the protest, but those who are determined to palliate, who are blind with devotion; who, having eyes, see not, and ears, hear not, the things which concern the salvation of the country. The only effect of this explanatory message has been to render that which was clear as light, dark, lowering, and portentous as the black and muttering cloud from which we may expect a coming storm, to shake, and blast, and desolate all around us! There is no mitigation, but aggravation of the offence, to my mind, in the second message. Indeed, we are told by its friends that there is no difference between it and the first. The first, the stubborn, the meaning protest must stand, then, unexplained, unretracted, unexpiated; and I will not again ask the common sense of any man, if it is not directly as pointedly at issue with these resolutions as an affirmative and negative proposition possibly can be with each other! But I shall proceed to demonstrate, in my poor way, the truth of these resolutions, which may be voted down by many, though admitted by all.

I cannot conceive, Mr. Speaker, where the President or his council find it in the constitution that the custody of the public money must be intrusted to the Executive department, unless they obtain it by implication from the 1st section of the 2d article, which "vests the executive power in a President." I presume that this is the clause relied upon, from the expression, "the custody of the public property has always been considered an appropriate function of the Executive department, in this and all other Governments." But I cannot understand how the exercise of powers, by the Executive

or Kings of other Governments, can be precedent or example for the exercise of similar or the same powers by the Executive or President of this Government, except by one mode of construction, which is subversive of our constitution. The section of the constitution referred to must be received by the writer of the protest as conferring all powers which are inherently in their nature executive, according to the standard writers on the nature of the powers of Government. And, in order to obtain for the executive branch of this Government all such powers, all that this school of construction have to do is to look to Montesquieu, or some other writer on the powers of European Governments, for a power in its nature executive; or, to use the language of the protest, for a power which "has always been considered an appropriate function of the Executive department in this and all other Governments!"

Now, sir, I doubt, but I shall not stop to discuss, whether the power of "keeping the public money" can be found in Montesquieu, (who, I am informed, is the first writer that divided the powers of Government into legislative, executive, and judicial,) or any other author, to be in its nature an executive power. But admit that it is so, and has always been so considered by all writers, still, I contend, in the first place, that this section of the constitution confers no power whatever, executive or not; and, in the second place, that the constitution does confer this power of keeping the public moneys, no matter how it had been before considered, expressly upon the Congress of the United States.

The first three sections of articles 1st, 2d, and 3d, were intended merely to divide the Government into three branches; to say—

1st. There shall be a Congress of the United States, to consist of a Senate and House of Representatives.

2d. There shall be a President of the United States of America.

3d. There shall be one Supreme Court, and such inferior courts as the Congress may from time to time ordain and establish.

And the constitution then proceeds to specify the powers given to Congress, which are denominated "legislative;" the powers given to the President, which are denominated "executive;" and the powers given to the courts, which are denominated "judicial." It does not pretend or attempt to define what either legislative, executive, or judicial powers are, according to their inherent nature; but by its own power of forming a new Government, arbitrary in terms, without reference to what had been considered by writers to be the nature of the respective powers, it gives certain powers to Congress, which it makes legislative; certain powers to the President, which it makes executive; and certain powers to the courts, which it makes judicial. Our Government is entirely "*sui generis*," and its powers must be defined by the constitution alone, without foreign aid or help. If the constitution be so interpreted as

to give to Congress, for example, only those powers which have "always been considered" legislative in their nature, it would take away power expressly granted to Congress—the power of declaring war; because it is in its nature an executive power, and is so considered by all writers on the nature of the powers of other Governments. The truth is, that, upon examination, it will be found there are several powers always considered executive in their nature, given by the constitution to Congress; but not one can be found which was ever considered legislative in its nature which the constitution has given to the President. And the reason is, because the chief point of difference between this Government and all others is that its very object is to limit, and check, and control executive power. But again: if the 1st section of the 2d article confers any power at all, so does the 1st section of the 1st article; and if the 1st section of the 1st article confers any power at all, it expressly vests "all legislative power therein granted in Congress;" and it would be entirely irreconcilable with two subsequent sections, which require the consent of the President to the passage of any law, joint order, resolution, or vote; it would go to strip the President himself of one of his most darling attributes of executive power—the power of the veto.

Whether the custody of the public money be "an appropriate function of the Executive department" or not, then the question is, has the constitution given that power to the President? And if it is not conferred by the 1st section of the 2d article, which confers no power whatever, by what other letter or clause of the constitution, I ask, is this power given to the Executive department? The appointing power, and none other, can be relied on. The protest says that "no officer can be created by Congress, for the purpose of taking charge" of the public money, "whose appointment would not, by the constitution, at once devolve on the President, and who would not be responsible to him for the faithful performance of his duties." In other words, the President has not immediately the custody of the public money; but, if the law creates an officer to keep it, the President, by the incidental right of appointment, has the power, under the constitution, of keeping the officer who keeps the money! Such is the idea of this power, as an incident to appointment. But section 2d, article 2d, of the constitution, says: "The President shall nominate, and, by and with the advice and consent of the Senate, shall appoint ambassadors, or public ministers and consuls, judges of the Supreme Court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law." Now, sir, if this clause had rested here even, still many difficult questions would have to be all decided in favor of the President's construction, before it could be received as politically orthodox: as that, though the President alone

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has the power to nominate, yet is not the power to appoint a joint power between him and the Senate? It is true, by abusing the power "to fill up all vacancies that may happen during the recess of the Senate, by granting commissions which shall expire at the end of their next session," he may change the tenure of all offices, by annual appointments, to be held under his absolute will alone, from expiration to expiration of every session of the Senate; and it is true that the best expounders of the constitution in '89 decided he has the power of removal; yet, if the powers of appointment and removal are both conceded to be in him alone, still another important question arises: do the duties of an office, created by law, attach to the authority from which the appointment is derived, and upon which the power of removal depends; or do they attach and belong to the office itself, derived from law?

I have already conceded, to the extent which I have described, that, where the law creates an officer, clearly within the pale of the Executive department, such as one of the heads of Departments, the keeper of the public money, or to do and perform any duties required by law, such an officer is thus far responsible to the President, by virtue of his official relations. But does responsibility, to any extent, from an inferior to a superior officer, actually convey the office itself, and its duties? Because the Secretary of the Treasury is responsible to the President for acts which he is imperatively required by law to do, or not to do, has the President the right or the power to assume the office itself? It would, indeed, seem so, from his doctrine of responsibility of executive powers, and from his late conduct. He may fail to nominate the Secretary of the Treasury, permit the appointment to expire, refuse to nominate another, remove the Treasurer, Comptroller, and Register; or any or all of these offices may be vacated by resignation or death, as well as by removal—and what is the consequence? Why, sir, according to the doctrine that the custody of the public money is, by the constitution, "an appropriate function of the Executive department," the whole keeping of the treasury would necessarily, in the absence of all these officers, whom he may at will displace and disband, result to the President himself, in whom all executive power concentrates. And the public money having been removed from the Bank of the United States, the place where the law placed it, and there being now no other place pointed out, he may put it into his own coffers, and dispose of it, for aught there is to prevent him, to his own use! In fact, this claim of the custody results in that of the use of the public money. What, I ask, is there now to prevent the President from taking, without appropriation by law, one hundred thousand dollars, instead of twenty-five thousand dollars, to be appropriated by law, for his salary, in the teeth of the constitution? If this protest be true, the checks and balances of the Govern-

ment are gone—never existed; and he who does not dare to resist this attack upon the constitution is fit to be a slave, and not worthy of free Government.

It is clear, then, I repeat, that if the constitution had gone thus far, and no farther, in the clause referred to, the President's claim to power would still be inadmissible. But, sir, I leave all this debatable ground, and take a stand which cannot be assailed by argument or by force, unless the constitution itself be demolished, so that not one stone shall be left upon another, from its deep foundation to the top of its superstructure. Happily for the country, this clause further provides: "But the Congress may, by law, vest the appointment of such inferior officers"—(what inferior officers?)—"all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law," besides "ambassadors or other public ministers, and consuls, and judges of the Supreme Court"—"as they think proper, in the President alone, in the courts of law, or in the heads of Departments." Congress may, then, to-morrow, *Deo volente*, by two-thirds, create a Treasurer, or keeper of the public money, whose "appointment would not devolve upon the President." A Treasurer being "such inferior officer" as whose appointment is not "in the constitution otherwise provided for," being neither ambassador or other public minister, or consul, or judge of the Supreme Court, being an officer "which shall be established by law," the Congress may, by law, passed by two-thirds of both Houses, vest his appointment, as they think proper, in the courts of law.

And if the appointment of Treasurer, and all other treasury officers, should thus become vested by law in the "courts of law," what, then, would become of the President's doctrine of responsibility? Would the Treasurer still be responsible to him by virtue of his office? or, *mutatis mutandis*, would the custody of the public money then be an appropriate function of the Judiciary? Would the power of keeping the public money then be incidental to the power of appointing the agent to keep the public money? No, sir; the judges would appoint, and become, *instantly*, as to all other powers touching the treasury, "*functus officio*," precisely as the power of electors of President and Vice-President die, as they should, in the very discharge of their functions to appoint, to vote for, or elect. The constitution positively negatives the proposition of the protest, that "no officer can be created by Congress for the purpose of taking charge of the public money, whose appointment would not, by the constitution, at once devolve on the President."

And, sir, the mode of demonstrating that this power of the custody of the public money is not given to the Executive, shows that it must be in Congress. Such a power cannot be claimed for the Judiciary, and, if not in the Executive, where else can it be but in the Congress of the

United States? We have seen that Congress may, by law, vest the appointment of the agent to keep the public money in either the Executive or the Judiciary; that if that agent is not appointed by the President, even the protest does not claim the power; and whether the judges have the appointment vested in them or not, they can never pretend to the custody. But the eighth section of the first article settles all controversy on this point, by providing that "the Congress shall have power"—

"To lay and collect taxes, duties, imposts, and excises; to pay the debts," &c.

"To borrow money on the credit of the United States."

"To coin money, regulate the value thereof, and of foreign coin."

Thus Congress alone has the power to raise the revenue, whether by taxation, loan, or by the mint. And the ninth section of the first article, providing that "no money shall be drawn from the treasury but in consequence of appropriations made by law," gives to Congress the power of disbursing as well as raising the public revenue. If the custody of the public moneys is not expressly given in these clauses of the constitution, it is nowhere expressly given. The grants of the powers to raise and appropriate, necessarily, to my mind, include the power to keep the moneys of the United States. But, if not expressly given to any, yet all must admit that it belongs to some one branch of the Government; that it necessarily results from the powers which are expressly given; and that it cannot result from any express power so properly as from those of collecting and appropriating the public moneys. To which branch of the Government, then, does it belong? To Congress, which has all the powers, or to the Executive, which has none of the power of collecting and appropriating the public revenues? Most clearly, all powers, necessarily and properly resulting from those expressly given to Congress, belong to Congress. But I advance a step farther, and contend that all resulting powers whatever belong to the Legislative, and the law-giving branch of our Government. Whatever doubts may exist or be raised in other Governments, where the Executive power is always strongest, there is a clause of our constitution which leaves no room for doubt on this point in this Government, where the Executive is at best merely co-ordinate. The constitution provides that Congress shall have power "to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this constitution in the Government of the United States, or in any department or officer thereof." If the custody of the public moneys be a resulting power, then, and resulting, too, from a power expressly given to the Executive even, it must, nevertheless, by this clause of the constitution, belong to Congress. But it is an express power, and expressly given to Congress.

We have thus far been contending, however, for the custody alone of the public moneys. The first of these resolutions declares their control as well as their custody to be in the Congress of the United States. Sir, upon examination of the protest, the conclusion is irresistible, that all, all power over the public purse is claimed by the Executive. I make not this declaration generally, but in reference to particular facts.

All control, except that of prescribing the place, is claimed over the moneys in the treasury; but let it be remembered that there are moments when the public moneys, unappropriated, and not disbursed under appropriations by law, are not in the treasury. They are "*in transitu*" to the treasury immediately after collection, and from the treasury immediately after appropriation. This is true of all the revenue. What matters it, then, where the treasury is, when the President, through "his" Secretary, may prevent every dollar from ever going there? It is known to all, I presume, that the moneys of the United States, collected at the different ports of entry, are brought into the treasury by an order of the Secretary to the collectors to pay the sums due by them at the places of deposit, to the credit of the Treasurer of the United States. When this order is obeyed, the moneys are in the treasury, and not before. Now, sir, what is there to compel the Secretary to order the moneys to be paid into the Treasury? And if it be true that the Executive has their custody, what, in this state of the public moneys, becomes of that provision of the constitution which says that "no money shall be drawn from the treasury but in consequence of appropriations made by law," and which is the only check upon the President's control of the public moneys? Do not these new protestant doctrines, which come neither from Calvin nor Luther, lead directly to the alarming consequence that the President, having the custody of the moneys, in or out of the treasury, might expend the moneys not credited to the Treasurer, or use the amounts of collectors' bonds, without appropriation by law, inasmuch as it is the money "from the treasury" only which shall not be drawn but in consequence of appropriations made by law? Ay, sir, I ask those who attended the discussion of the appropriation bills, if moneys collected have not been expended, before they were brought into the treasury, without appropriations made by law? I inform the people that they have; that suits are multiplied unreasonably on collectors' bonds; and that collectors and district attorneys of the United States pay their fees and the costs, and return the net proceeds only into the treasury. And if a part may be withheld without sanction of law, why not the whole? And if a part, or the whole may be withheld for one object, why not for another? Again, sir: there are the immense revenues of the Post Office Department, which are never brought into the treasury, over which there

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never was, and is not now, the guard or check of Treasurer, Comptroller, or Register. What, I ask, is there to prevent the Executive from pocketing them for its own use, or controlling them for his own purposes, if Congress cannot take their custody from the present agents? "Where are they now?" is a question which has been reiterated in vain this winter, until its repetition has ceased to annoy the few who only know, and has left the interested many who know not, in despair of ever knowing, until the too far distant day of account shall come! I say, then, if the custody of the moneys of the United States, unappropriated, and not disbursed, whether in or out of the treasury, be not in Congress, their control must be in the President. Are any here so basely servile as even to connive at this doctrine? None, I hope. I call upon all, then, to vote for the first of these resolutions. It says, that "the custody and control of the moneys of the United States are placed under the order and direction of Congress," to meet the cringing argument which is used, that "Congress has no hand to hold the public purse." It is true, sir, that Congress, as a body, cannot keep the public moneys; but the custody of Congress is the custody of the law, and the hand of the law is the agent created by Congress.

The third resolution declares that Congress can take out of the hands of the Executive department the custody and control, not only of the public moneys, but of the public property of the United States. Sir, I shall not stop here to refine upon the nice distinctions between the words "money" and "property;" and, though there is a material and important difference between "money in the treasury," and lands, tenements, arms, and other "property" purchased with money once appropriated by law, yet I will admit that, in a broad sense, "public money is but a species of public property." If so, my argument is at once confirmed by the constitution, which expressly provides (section 3d, art. 4th) that "the Congress shall have power to dispose of, and make all needful rules and regulations respecting the territory or other property belonging to the United States;" besides the power given in the 16th clause of the 8th section of the 1st article.

I hope, sir, that I have now shown what are the doctrines, and some of the errors of the protest; that I have demonstrated the truths of these resolutions, and maintained not only their propriety and consistency, but laid bare their absolute necessity to the very preservation of our form of government. I therefore call upon this House, by the danger of giving silent consent to enormous and alarming claims of power by the Executive, by the sacred trusts which are reposed in it by the people, by its own dignity, self-respect, just powers, and independence, and by the cause of civil liberty, to sustain these resolutions, which contend for the laws and the constitution.

To those who, with me, deprecate and deplore the present condition of the country, I would

say, it is too true this is no longer a question of restoration or not of the deposits, of "bank or no bank," of dollars and cents, but a question of constitutional freedom. How, though, are we to redeem the constitution, vindicate our own powers, and restore the rights of the people, without acts as well as declarations? It is useless to declare the powers of Congress, without attempting at least to exert them. The cry of "Usurpation! Usurpation!" is a dull sound, without efforts to second its notes. How correct the abuse of removing the deposits, but by restoring them? How restore a sound, uniform, and safe currency, but by adopting some permanent plan of relief? How rebuke the abuses and usurpations of power, but by counteracting both? Sir, I hope gentlemen in opposition are in earnest, and are actuated by patriotism more than by party spirit; that they do not mean only to cast odium on the acts of the administration, without intending to apply a remedy themselves. I hope they do not desire the suffering of their countrymen to continue, in order that they may be more than imbibed against those in power; that the cry they have raised is not so much to destroy the popularity of "the powers that be," but that it has a meaning in it worthy of the patriot's warning, and that they will continue at their posts until this policy of doing nothing, of leaving all power where it now is, is defeated and overthrown.

Sir, I respectfully ask gentlemen who support the Administration in all these measures, if it can possibly be their deliberate policy to adjourn without doing something for relief—not pecuniary relief, that is now but as the dust in the balance—I mean relief of the laws and constitution? I respectfully inquire of the honorable chairman of the Committee of Ways and Means, if any other can be his design, or the design of the party with whom he acts, by the proposition of the measure he has reported? Can he or any man expect us to adopt that measure, when it would but confirm the present state of things; but employ the worst of means to effect the very evils complained of; but add the sanction of law to the very violations of law; and servilely grant, yield, and consent to the usurpations of power which we are so loudly called on sternly to deny, refuse, resist, and denounce? Does he not, did he not foreknow that Congress will reject this proposition to strip it of all its powers, and transfer them to the Executive? And if Congress does reject it, as it is bound by law and duty to do, do gentlemen flatter themselves that they can return to their constituents with the insulting excuse, that the Administration has done its part for the people? I imploringly ask gentlemen, if this is to be their "ultimatum?" If so, I venture to predict that it will be the "ultimatum" of their fate! Sir, this may be the croaking of prophecy, and they may feel secure as a tower of strength in their present possession of power. But if they continue to mock the complaints of

the people; if they continue in that desperate course which blindly plunges from bad to worse; if they do not quickly retrace their steps of folly, repent of past errors, (which they may now do without making confession;) if they persist in this sacrilegious policy which pollutes the sacred vessels of the sanctuary; they will yet have to tremble, like Belshazzar, at the hand-writing on the wall!

Sir, in the language of Fisher Ames, "if my powers were commensurate with my zeal, I would raise my voice to such a pitch of remonstrance" against this cruel injustice to a generous people, this mischievous policy of those in whom that people have confided, this flagrant outrage upon the laws and constitution, "that it should reach every log-house beyond the mountains." I would say to the inhabitants of this land, to its utmost borders, rise in your majesty and sovereignty, and hurl from his place of power every public man within the reach of a ballot-box, who has sought to perpetrate these atrocious evils upon the body politic, or who has been supine and inactive whilst others have been guilty of their perpetration! But, sir, as I cannot be heeded by the nation beyond the district of my own constituents, I would speak with a "still small voice" to those who are near me. In my present relation to the President, I cannot condescend, as an independent representative of a people yet free, to offer an apology for the course I have been driven to pursue by the late measures of the Executive. I claim rather an atonement from the man whom I supported for the presidency for such acts of misrule. But if I were permitted to expostulate with him, as still a sincere personal friend, I would warn him to "shake off the serpent from his hand, ere poison and death ensue from the bite of the reptile!"

I will say to my personal friends in the administration ranks: "I am no deserter, and have a right to speak to a brother soldier. It is true I have left your camp, not because I dislike the corps to which I belonged, but because there were vermin there; and I enlisted under the banners of the 'Old Chief' to fight for my country, and not against her most sacred institutions and dearest rights. I call upon you who are faithful to him to save the time-honored warrior from the 'deep damnation' of the bitter curses of an injured and insulted people, groaning under the pillaging policy of 'orderly sergeants,' reckless alike of the country's welfare and of the President's popularity, enriched with the 'spoils of victory,' and flushed to madness with the intoxication of repeated triumphs!"

Sir, I will say to members, of whatever party, "Show to the world that if there are too many who love to be tempted to forget their trust, by a well-managed venality, there are a few who find a greater satisfaction in being thought beyond its influence."

I will say to the people: "Ho! every patriot to the rescue!" And, "if the worst comes

to the worst," I would put up to the God of nations the prayer of Warsaw's last champion—

"Oh Heaven! my bleeding country save!"

When Mr. WISE had concluded, Mr. PEYTON replied, and closed by calling for the reading of the amendment he had proposed to the resolutions at the time they were offered.

Mr. MILLER moved that the memorial, resolutions, and amendment be laid upon the table.

On this motion the yeas and nays were called, and stood—yeas 105, nays 97.

THURSDAY, JUNE 12.

Kentucky Contested Election—Letcher and Moore.

The SPEAKER announced to the House that, on the previous evening, he had some doubts whether the election case, having been referred to the Committee of the Whole, was again the order of the day. However, on reference to the 90th rule, he was now of opinion that it was no longer the special order, but it was in the power of the House, he said, to take it up if they thought proper.

So the House agreed to proceed to the immediate consideration of the subject; and, on motion of Mr. SUTHERLAND, resolved itself into Committee of the Whole thereon, Mr. HOWARD in the chair.

Mr. MCKAY moved the following resolutions:

Resolved, That neither Thomas P. Moore nor Robert P. Letcher be permitted to take a seat in this House as the representative for the 5th congressional district of the State of Kentucky, and that said seat is now vacant.

Resolved, That the Speaker of this House do notify the Governor of Kentucky that said seat is vacant.

Mr. SUTHERLAND proposed the following, so as to be strictly in the terms of the original instructions:

Resolved, That there be a new election for a member of this House from the 5th congressional district in Kentucky, it being impracticable for this House to determine, with any certainty, who is the rightful representative of said district.

Mr. MCKAY withdrew the resolutions proposed by him.

The resolution proposed by Mr. SUTHERLAND was agreed to, and thereupon the committee rose, and reported the same to the House for their concurrence.

Mr. WILDE offered the following resolution:

Resolved, That Robert P. Letcher is entitled to a seat in this House, as a representative from the 5th congressional district of Kentucky.

The question was then put, and decided in the negative—yeas 112, nays 114.

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So the House refused to declare Mr. Letcher entitled to a seat.

The question recurring on concurring with the report of the Committee of the Whole, which declares neither of the claimants entitled to a seat, and sends back the election to the people, on the ground that the House was unable to decide between the candidates—

Mr. ADAMS moved to strike out the last clause of the report, which related to the inability of the House to decide, as being unnecessary, dishonorable to the House, and inconsistent with the vote just given.

Mr. WISE opposed the motion; and it was negatived.

FRIDAY, June 18.

State Banks as Depositories—Mr. Adams' Resolution.

The following resolution, submitted some time since by Mr. J. Q. ADAMS, coming up for consideration :

Resolved, That the Secretary of the Treasury be directed to lay before the House the names of the presidents, cashiers, directors, stockholders, lawyers, and solicitors, of all the banks selected by him as depositories of the public moneys, in the place of the Bank of the United States and its branches; together with the amount of stock in said banks held by each stockholder, and the amount of debt due by each president, cashier, and director, of each of the banks to the said bank, at the time when it was selected as a depository, and at this time;

With Mr. POLK's amendment thereto, viz.:

Resolved, That the Secretary also communicate to this House the amount of debts due by the president, cashier, and directors of the Bank of the United States to said bank at this time, or at any time within one year last past, and also the names of the lawyers and solicitors of the Bank of the United States and branches, and the amount of debt due by each to said bank at this time, or at any time within one year last past.

Mr. J. Q. ADAMS rose to express his sincere hope, as the amendment proposed by the honorable member from Kentucky had been withdrawn, that the member from Tennessee (Mr. POLK) would also withdraw that proposed by him, and that he would thus suffer the resolution, as it had been submitted by him, for the inquiry into the actual state and condition of these deposit banks, to pass without further opposition. This was desired by him, because it was most important for the House to have the information to assist them in coming to a proper understanding upon the bill before them, to regulate the terms upon which these deposits were to be held by the State banks. He asked this with some confidence, believing that the honorable member would concede so much, if from no other motive than that of courtesy to the House, and because the honorable member knew that, if he desired

to have the information which he, in submitting the amendment, appeared to be desirous of having, he could have it by making a distinct proposition therefor to the House. He (Mr. A.) said he knew that the honorable member could have such a proposition readily passed, because the House had already granted, at his instance, an inquiry much more extensive than that which he had proposed by his present amendment to make into the condition of the Bank of the United States: the House having evinced their readiness not to refuse their aid for such inquiry by an unusually large majority. It was therefore, he contended, perfectly in his power to attain all the information which he desired, in another shape, without its being necessary to persist in the amendment proposed by him, and which could have no other effect than that of clogging, if not absolutely preventing, the passage of the resolution which he (Mr. A.) had submitted as to the State banks: for it was one altogether of a different character, having no sort of similitude to that proposed by him. His resolution had no reference, as the honorable member's had, to the private affairs of any individual, but solely applied to the management of the State banks. His object was not to make any other inquiry. It was, as he had formerly stated, simply to ascertain what capitals these institutions really had, or whether they had any. Whether, in a word, the condition of such institutions as were to have the custody of the public treasure, was such as, being without funds and trading upon borrowed capital, placed them in that situation which they, in language from high authority, had heard ought to be the doom of such: "that they ought to break." They had before now heard, that the best possible way to get rid of some disagreeable subjects, was by clogging them with amendments of a character so foreign to the original propositions to which they should be appended, that the movers themselves must be induced to vote against them. This he acknowledged must be the effect upon him, if the honorable member should not withdraw the amendment. He could not vote for it, because there was an examination proposed in it of a character very different and much more extensive than he had proposed to make into the State banks: and there was a further reason why he could not vote for it, which was, that he considered that was asked for which he did not believe that the House had any right to demand. And it was from this very line of conduct, adopted by the House on a former occasion, that all their difficulties arose in relation to the bank. On that occasion, a resolution was proposed to the House to make inquiries of a nature which they had no right to make. Well, what was the result? Why, they adopted the resolution, and sent on their committee to Philadelphia to carry it into effect. When that committee went on there, they followed the example of

the gentleman from Tennessee on the present occasion, and extended their inquiries beyond the limits fixed by the House, and into matters still more out of their proper province, and then what were the consequences? Were they not such as might fairly have been expected to ensue? Their right to make them was denied. They were refused. They came back, and from this took upon themselves to report that the bank had violated its charter, not on those grounds of violation into which they were sent to inquire, but because the bank had refused, and properly refused, to answer such inquiries as they had assumed the right to demand. The gentlemen were sent to get information as to alleged violations of the charter. They got no information at all, for the reason he had stated; and then they came back to those who sent them, breathing vengeance, talking of violations of the charter of the bank, of contempt committed by it to the authority of the House, for which they must be brought to condign punishment. And, as a means to inflict it, they forthwith report a series of resolutions, that the president and directors should be brought to the bar of the House to answer for the same. What else resulted from this? The conduct of the bank was, to be sure, a contempt, a high contempt in the imagination of the committee, of the privileges of the House; and yet, notwithstanding all this, eager as these gentlemen of the committee were so to deem it, he had not seen that they were quite so anxious to bring up the subject, that, if what they had alleged was a contempt, the indignation of the House might fall upon those whom they had described so forcibly as having incurred it.

Mr. Polk had not expected, he said, when he came to the House this morning, that it would be necessary for him to engage in a further discussion of the subject before them; but as the honorable member from Massachusetts had revived the discussion of a former day, and had been pleased to indulge in a course of remarks not very pertinent to the immediate question before the House, he must advert to such of them as seemed to require from him some notice. The gentleman repeats the request which he had made when this resolution was last under consideration, a few days past, that he (Mr. P.) would withdraw the amendment which he had had the honor to propose. Mr. P. begged, in the outset of what he had to say, to state that it was not his intention to withdraw the amendment.

The honorable member, by his resolution, proposes to call upon the Secretary of the Treasury for certain information relating to the State banks which had become the depositories of the public money. He states his object to be to ascertain the condition of these banks, and more especially of the private accounts and indebtedness of their respective presidents and boards of directors, and to learn

also the names of those persons who were employed as their lawyers and solicitors—with the view, as he states, to enable himself and others to determine whether these banks are safe depositories of the public money. The object of the amendment was to make the inquiry broad enough to embrace a call for similar information as regards the Bank of the United States; to extend a similar inquiry into the state of the accounts of the president and directors of that bank also; and to ascertain the names of the lawyers and solicitors of the Bank of the United States, and their indebtedness to that bank. To this the gentleman objects, and insists that it is proper the amendment should be withdrawn. The Government had still in the vaults of the Bank of the United States some two or three millions of public deposits, which had not yet been withdrawn from it. The United States was, moreover, the holder of one-fifth (seven millions) of its stock. Was it unreasonable, then, if such an inquiry as was proposed to be made was deemed necessary as regarded the State banks, to extend the same or a similar inquiry into the affairs of a bank in which the people of the United States had so great a stake? Inquiry into its condition, in this respect, was the more peculiarly demanded, when the antagonist position which it had assumed towards the Government was considered. What had been its conduct towards the Executive, and towards this House? Had it not, in its official acts, and through its friends and advocates here and elsewhere, openly denounced the chief Executive Magistrate as a tyrant, a usurper, and a despot—as every thing but a patriot and an honest man? Had it not, by itself and its friends, advocates, and presses, in the progress of the present session of Congress, called upon this House to join in the hue and cry against the Executive, for an alleged usurpation of power? When this call was made, the bank and its supporters and advocates conceded that the institution was responsible for its acts to Congress, and the full power of Congress over the whole subject was admitted. The House had proved to be refractory, and, by its votes, had sustained the Executive, and in effect declared the charge of *usurpation*, tyranny, and despotism, against the President, was *senseless* as well as *false clamor*, and wholly unfounded; and no sooner was this done than the bank and its friends had come out in bitter denunciations against the popular branch of Congress. Yes, sir, this House, the immediate representatives of the people, the true reflectors (when its members truly represent their constituents) of the popular will, had, since the return of the committee of investigation from Philadelphia, as he would presently show, been denounced, with the President, as usurpers of powers which did not belong to them. Were we to endure all this from an institution whose strides for power were not only rapid but

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arrogant, and yet be told that we had no right to exercise a power, expressly reserved to us by the charter, of examining into the malpractices or corrupt conduct of its managers, or looking into its condition? But, according to the gentleman, this immaculate and inoffensive Bank of the United States must not be looked into, though the affairs of the State banks must be thoroughly probed. Again, he thought it more peculiarly proper to carry the inquiry into the concerns of the United States Bank, because a committee of the House, appointed to investigate its affairs, by a vote of 170 members, had gone to Philadelphia with the very inquiries which were now proposed to be made into the State banks, and had been insultingly repulsed.

The House, through its committee, had called for the very information which the gentleman now seeks from the State deposit banks; and yet, what was the reply of the Bank of the United States? When the committee of this House called, among other things, for the names of the lawyers and solicitors employed by it, and their indebtedness to the bank, did the bank furnish the information? Did they determine to comply with the call of Congress through its committee? No. They reply, by their official organ, that Congress was not authorized to demand it. That a committee, sent to the bank by Congress for that purpose, had no power to call for such information. Would this be denied? If it was so, then he held in his hands the proof.

[Here Mr. P. read from the documents appended to the report of the committee of investigation the following resolution, adopted by them whilst at Philadelphia, viz.:

"Resolved, That the president, directors, and company of the Bank of the United States be requested to furnish this committee with the particular items, and the aggregate of all fees and compensation paid during each year to attorneys, counsellors, or lawyers, since the establishment of the bank; stating the amount paid to each person employed, together with their residence; the times when the payments were made, and the particular services rendered for each charge paid; also, whether the same has been paid at the parent bank or branches, and at which, designating them; also, of all sums paid as a general or annual fee or salary to counsellors for the bank, specifying the names of such persons, the amounts, and times, and places of payment; and, also, whether such sums were paid by the order, in each case, of the board of directors, or how otherwise paid; designating such sums as have been paid in cash, and such as may have been passed to the credit of such persons or others, in payment of any debt or debts due to said bank."

And what, said Mr. P., was the reply of the bank to this and other calls made upon them by the committee for information? Why, that "the board do not feel themselves at liberty to comply with the requirements of the resolutions of the committee of investigation," &c. He would, he said, read a part of the bank's reply. It was as follows, viz.:

"BANK OF THE UNITED STATES, May 3, 1834.

"At a special meeting of the board, held this day, the following resolution was, on motion, unanimously adopted:

"Resolved, That the board do not feel themselves at liberty to comply with the requirement of the resolutions of the committee of investigation of the 29th ultimo and 1st instant, and do not think they are bound to do so, inasmuch as, in respect to a part of the papers called for, the effect would be the same as the surrender of their books and papers to a secret and ex parte examination, which they have already refused to consent to."

Under such circumstances, he could not conceive that he was violating any rule of order or propriety, in insisting that, if the inquiry proposed by the gentleman from Massachusetts was to be made, that it was equally due to the country and to Congress to have such examination made also into the affairs and management of the institution in which the Government had not only a large interest, in addition to the deposits still remaining with it, but which had resisted the authority of the House, and was bidding them defiance.

He considered it most unreasonable to be asked to withdraw the amendment calling for it. He should hope it would be deemed much more reasonable for him to ask the honorable member from Massachusetts to modify his resolution by inserting, along with the State banks, that of the United States Bank.

He hoped that he would not be told, in objection to the call proposed by his amendment, that it was useless for him to press it, because the president and directors had already refused the same information when demanded by the committee; and that, therefore, they would refuse that demanded by his amendment. This was not a sufficient answer, although it was not to be denied that, from their previous conduct, such might be the result. Should it be so, he desired the House should know it. He admitted that it had so arrogantly set itself up to determine the whole public policy, dictate whether any or what powers properly belonged to the Executive department and to Congress, that he knew not where it might be said that its claims were to terminate.

Mr. P. said he had stated that though the bank, through its organs and advocates, at the early periods of the present session of Congress, when we were appealed to join in damning and putting down the chief Executive Magistrate, had lavished unmeasured praises upon us, had conceded to us the power which this House afterwards exercised, and had professed a willingness to yield obedience to our decision upon the great question which has occupied so much of our time, that yet when this House had condemned the bank, and sustained the President, we had shared in its denunciations. This he happened to have it in his power very briefly to show. A paper had this moment been handed to him by a

gentleman near him, which he had read some days ago. The paper (the National Gazette) contained an article purporting to be editorial, but which bore on its face evidence that it was the semi-official, indeed it might be regarded as the official expose, issuing from the bank itself—because it contained an extract of what purported to be a private letter, addressed by a private citizen to the bank, and which could have been procured from no other source but the bank itself. From that expose he begged to read a paragraph or two, to show its general tone, and particularly what was said of this House. He would only further state that it appears in the paper of the 8d of June, and after the report of the committee of investigation was made to this House. Mr. P. here read from the expose as follows, viz.:

"The House, it cannot be dissembled, has lost much of the confidence of the country, and has lost it by inattention to its own character. They have been much too servile—have permitted themselves to be the dupes of political jugglers. It is a fact perfectly notorious that a very large portion of the House, outside of the bar, acknowledge the improper conduct of the Executive, yet step forward a few feet and vote to support the very measures they disapprove. The House ought to be ashamed of such conduct; there are really many honest and well-meaning men in that body, and they ought to revolt at the humiliation to which the kitchen cabinet subjects them. The present feeling of the country towards the House is one of surprise and pity. Surprise, that a popular body should seem so indifferent to popular rights; and pity, that it should suffer the control of these political jugglers. If, hereafter, that body should be despised, it will only be because it has made itself despicable. If it be treated with contempt, it will be because it is contemptible."

Again, he said, this bank expose (for he held himself justified in supposing that it had the sanction of the bank, for garbled extracts of the private correspondence of the bank formed a part of it) held the following language, which he read, viz.:

"The great contest now waging in this country is between its free institutions and the violence of a vulgar despotism. The Government is turned into a baneful faction, and the spirit of liberty contends against it throughout the country. On the one hand is this miserable cabal, with all the patronage of the Executive; on the other the yet unbroken mind and heart of the country, with the Senate and the bank; the House of Representatives, hitherto the instinctive champion of freedom, shaken by the intrigues of the kitchen, hesitates for a time, but cannot fail, before long, to break its own fetters first, and then those of the country. In that quarrel, we predict, they who administer the bank will shrink from no proper share which the country may assign to them; personally they must be as indifferent as any of their fellow-citizens to the recharter of the bank. But they will not suffer themselves, nor the institution intrusted to them, to be the instrument of private wrong and public outrage; nor will they omit any effort to rescue the institutions of the country from being trodden under foot by a faction of interlopers."

In the same paper the inquiries made by the committee of investigation are denounced as a "mass of arrogance," because they had called for certain correspondence with the bank, which the bank refused to furnish. The bank, he said, in this paper, which was evidently prepared under its own direction, defied and insulted the House of Representatives. After setting itself up in opposition to the Government, assuming to construe the powers of the Executive, and to dispute what authority he should and should not exercise, it now abuses and denounces this House.

Mr. J. Q. ADAMS here interrupted Mr. POLK, and called on the member from Tennessee to state the evidence upon which he made these charges.

Mr. POLK held it in his hand. It is, as he had already stated, what purports to be editorial, but comes to the public under the sanction of the bank; if it was not written, as he believed it was, by the direction of the bank itself. The paper furnishes intrinsic evidence of its authorship; for it contains a letter which could not have been procured but from the bank. Yes, sir, the bank, which was so scrupulous in regard to private correspondence, had not hesitated to avail itself of a private letter, with a view to assail members of this House.

Mr. ADAMS begged to know what proof he had of this?

Mr. POLK. The proof is on the face of it: it bears internal evidence that it must have come from the bank. He found in it, as he had already stated, an extract of a letter addressed to the bank by a private citizen, and which could not find its way into this, the bank's known organ in Philadelphia, (the National Gazette,) without the knowledge or connivance of the bank, or, indeed, without having been furnished by the bank. This is a private letter addressed to the bank by a private individual on his private affairs; and we thus, notwithstanding the bank's objection to disclose to a committee of the House, when called upon for that purpose, the correspondence called for touching its "fair business transactions," nevertheless does not hesitate to blazon forth, under such circumstances, a garbled extract of what should, by its professions, be held sacred, for the base purpose, he must conclude, of blasting the character or affecting the reputation of a member of the committee. He would now read on, to show the character of this immaculate institution.

[Mr. P. here read some other extracts.]

The bank, then, had refused to answer the calls for information made by this House through its committee; but he supposed that a full answer would be found in an extraordinary ground of defence for the misconduct of the bank, to be seen in another document, (the report of the minority of the Committee of Ways and Means on the deposit question, at the present session,) viz.: "In relation to all the operations of the bank included under the

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first head, it must be answered that, whether the bank has been right or wrong, her board of directors assert the legal right to do whatever has been done."

There, indeed, it was openly asserted that the directors had full right to refuse compliance with what the House had so solemnly resolved they deemed necessary to have to aid them in their legislative duties.

Mr. P., after commenting with severity on the general conduct of the bank, concluded by asserting that he had no possible objection to any inquiry that could be instituted, to ascertain the condition of the State banks; but, if the present resolution was adopted, he felt it necessary to insist upon having the other inquiry into the United States Bank along with it. He could not think of voting for a scrutiny of this character into the State banks, who had already voluntarily answered every call made upon them by the Secretary of the Treasury fully; and were, he doubted not, willing to answer any call which Congress might choose to make; and yet not extend the same call to that bank, which had, in refusing the same information to a committee, put at defiance the authority of the House, and put at naught its power. He wished to see whether it would again refuse to answer the call, when a similar one was made, by its friends upon this floor, upon the State banks. He did not wish to evade the investigation into the concerns of the local banks, but he wished also to carry it into the affairs of the Bank of the United States—an institution which some regard as the sole agent of the Government. The bank issues its bulletin, and declares that you have no power; that they stand above your reach; and you are now requested modestly to decline asking the bank any more questions. He shrunk from no scrutiny into the affairs of the local banks, and had no objection to the object of the resolution of the gentleman from Massachusetts.

The resolution was further debated by Mr. WAYNE, but before he had concluded the hour devoted to morning business expired.

Mr. CLAY called for the order of the day.

Mr. MILLER thereupon rose and moved a suspension of the rule, to enable the House to dispose of the resolution.

The House having refused to suspend the rule, the subject stands over.

The Removal of the Deposits—The Two Joint Resolutions (Mr Clay's) from the Senate.

The following joint resolution from the Senate coming up in its order:

Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled, That the reasons communicated by the Secretary of the Treasury in his report to Congress of the 4th of December, 1833, for the removal of the deposits of the money of the United States from the Bank of the United States and its branches, are insufficient and unsatisfactory.

Mr. POLK moved that it be laid on the table.

Mr. WARREN R. DAVIS rose to ask the honorable member from Tennessee, (Mr. POLK,) whether the object of his motion was to dispose of this subject finally, or merely to have it laid on the table for the present?

Mr. POLK declined answering. The question before the House was not, he presumed, debatable; and it was for the House to say what the final disposition of the resolution should be.

Mr. CHILTON said he rose to propound an inquiry to the honorable member.

Mr. POLK said he must object to this; and rose to a question of order, whether it was in order to propound inquiries on a question not debatable?

The SPEAKER intimated that, although the question was not debatable, the honorable member had a right to propound an inquiry simply.

Mr. CHILTON then made a few remarks; upon which,

Mr. POLK rose in objection, and made a point of order thereon; upon which,

Mr. DENNY rose, not, he said, to propound an inquiry to the honorable member from Tennessee, who appeared so sensitive, but to ask the Speaker whether, if a majority should now decide to lay the subject on the table, it was competent, during the rest of the session, for a majority to take it up again?

The SPEAKER replying in the affirmative—

The question on the motion was then put, and decided by—yeas 114, nays 101.

So the said joint resolution was ordered to lie on the table.

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The following joint resolution from the Senate then coming up, viz.:

Resolved, That all deposits of the money of the United States which may accrue or be received on and after the 1st day of July, 1834, shall be made with the Bank of the United States and its branches, in conformity with the provisions of the act entitled "An act to incorporate the subscribers to the Bank of the United States," approved the 10th of April, 1816—

Mr. POLK moved that this resolution also should be laid on the table.

Mr. CHILTON called for the yeas and nays; which having been ordered—

The question upon the motion to lay it on the table was put, and decided as follows—118 to 98:

YEAS.—Messrs. John Adams, William Allen, Anthony, Bean, Beardsley, Beaumont, Blair, Bockee, Bodle, Boon, Bouldin, Brown, Bunch, Burns, Bynum, Cambreleng, Carmichael, Carr, Casey, Chaney, Chinn, Samuel Clark, Clay, Coffee, Connor, Coulter, Cramer, Day, Philemon Dickerson, David W. Dickinson, Dunlap, Felder, Forester, Fowler, W. K. Fuller, Gholson, Gillet, Gilmer, Joseph Hall, Halsey, Hamer, Joseph M. Harper, Harrison, Hathaway, Hawkins, Hawes, Henderson, Howell, Hubbard, Abel Huntington, Inge, Jarvis, Richard M. Johnson, Noe—

diah Johnson, Cave Johnson, Seaborn Jones, Benjamin Jones, Kavanagh, Kinnard, Lane, Lansing, Laporte, Luke Lea, Thos. Lee, Leavitt, Loyal, Lyon, Lytle, Abijah Mann, Joel K. Mann, Mardia, Moses Mason, McIntire, McKay, McKim, McKinley, McLene, McVean, Miller, Henry Mitchell, Robert Mitchell, Muhlenberg, Murphy, Osgood, Page, Parks, Parker, Patton, Patterson, Dutee J. Pearce, Peyton, Franklin Pierce, Pierson, Plummer, Polk, Pope, Schenck, Schley, Shinn, Charles Slade, Smith, Speight, Standefer, Stoddert, Sutherland, William Taylor, Francis Thomas, Thomson, Turrill, Vanderpoel, Van Houten, Wagener, Ward, Wardwell, Wayne, Webster, Whalton, Campbell P. White—118.

YAYS.—Messrs. John Quincy Adams, Heman Allen, John J. Allen, C. Allan, Archer, Ashley, Banks, Barber, Barnitz, Barringer, Bayles, Beaty, James M. Bell, Binney, Brigga, Bull, Burd, Burges, Cage, Campbell, Chambers, Chilton, Châte, Wm. Clark, Clayton, Clowney, Corwin, Crane, Crockett, Darlington, Warren R. Davis, Deberry, Denny, Dickson, Duncan, Evans, Edward Everett, Horace Everett, Ewing, Fillmore, Foster, Philo C. Fuller, Fulton, Gamble, Garland, Gordon, Gorham, Graham, Grayson, Grennell, Griffin, Hiland Hall, Hard, Hardin, James Harper, Hazeltine, Heath, Heister, Jabez W. Huntington, Jackson, William Cost Johnson, King, Lay, Lewis, Lincoln, Love, Martindale, Marshall, McCarty, McComas, McKennan, Mercer, Milligan, Moore, Pinckney, Potts, Ramsay, Reed, Rencher, Selden, Augustine H. Shepperd, William Slade, Sloane, Spangler, Steele, Stewart, Philemon Thomas, Tompkins, Turner, Tweedy, Vance, Vinton, Edward D. White, Frederick Whittlesey, Eliasa Whittlesey, Williams, Wise, Young—98.

So this resolution was also ordered to lie upon the table.

SATURDAY, June 14.

Gold Coin Bill—Correction of Erroneous Standard.

On motion of Mr. WHITE, of New York, the committee then proceeded to consider the bill "regulating the value of certain gold coins within the United States."

Mr. BINNEY expressed his approval of so much of its provisions as went to fix the relative value of gold and silver; but as strongly dissented from the remaining features of the bill in relation to the fractional coins of the eagle and the dollars. These the bill proposed to debase by too large a portion of alloy, thereby giving the country a base currency in part. He considered it quite too late in the session to enter on the discussion of the delicate and difficult questions involved in this part of the subject. The opinions of the late Secretary of the Treasury, of Mr. Gallatin, and of the director of the mint, were all decidedly opposed to the policy of debasing the currency. He admitted that there was an able report in its favor; but he could not assent to its policy.

Mr. WHITE briefly explained. This part of the bill went on the principle of allowing to the Government a seigniorage to cover the expense of coining. He denied that it was debasing the currency. The legal tender was restricted to 10 dol-

lars, and the principle involved differed in nothing from the conventional value of a bank note.

Mr. SELDEN agreed to the views expressed by Mr. BINNEY, but hoped the bill would be carried into the House, and discussed there.

Mr. BINNEY, assenting to this course, withdrew an amendment he had prepared and proposed to the committee.

FRIDAY, June 20.

Local Bank Regulation Deposit Bill.

The House took up the bill regulating the deposits of the money of the United States in certain local banks.

The bill having been read, Mr. POLK addressed the House.

Mr. Speaker: The bill upon your table has been prepared and brought forward by the Committee of Ways and Means, in accordance with the principles understood to be settled by the resolution of the House, which affirmed "that the State banks ought to be continued as the place of deposit of the public money, and that it is expedient for Congress to make further provision by law, prescribing the mode of selection, the securities to be taken, and the manner and terms on which they are to be employed."

The bill is designed, so far as legislative provisions are deemed proper, to carry that resolution into effect.

In the report of the Committee of Ways and Means, submitted to the House upon a former day of the session, and which concluded with this, among other resolutions, which were afterwards concurred in by the vote of the House, the committee state that, "According to the law, as it now stands, the duty of selecting the banks, and of prescribing the securities to be taken, is devolved upon the Secretary of the Treasury under the supervision of the President. This power has been heretofore exercised by the head of the Treasury Department, and in a manner advantageous to the public; and it is not doubted, if the law should continue unchanged, that it may and will continue to be so exercised by the head of that Department; yet it is the opinion of the committee that discretionary power should never be given, in any case, to any officer of the Government, where it can be regulated and defined by law. They think that it would be more consistent with the principles of our Government for Congress to regulate, by law, the mode of selecting the fiscal agents, the securities proper to be taken, the duties they shall be required to perform, and the terms on which they shall be employed."

The opinion, here expressed, of the actual powers of the Executive, under the existing law, was founded not only upon a careful examination of the law itself, but upon the construction given to it, the uniform acquiescence in that construction, and the practice under it, from the earliest periods of the Government, and running through every administration, down

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to the present time. But we are here met at the threshold, and told, if this be so, why legislate upon the subject? "If it is all very well as it is, why should there be any legislation about it?" In the course of a former debate upon this subject the same gentleman (Mr. WILDE) thus expressed himself:

"But it has been said, and will be said, the money of the nation is in the selected banks—it will do no good to remove it—will you not provide for its safe-keeping there? I answer, frankly, No! I will not consecrate usurpation by law. They have seized upon the Treasury. Unless we, its constitutional guardians, can restore it to its safe and proper depository, let them keep it till they can be impeached. If tyranny will not rouse the people, ruin will."

It is here distinctly avowed, in anticipation that such a measure as this would probably be brought forward, that it was to be opposed. Indeed, there is reason to doubt whether there be any measure connected with the revenue, short of the recharter of the Bank of the United States, or tending ultimately to produce its recharter, which can receive the support of a part of this House.

The minority of the Committee of Ways and Means, in their counter report upon the subject of the deposits, maintain that, "if the present bank is not to be rechartered, something to regulate the currency must be provided in its place. The plan of the Secretary gives over the regulation to State banks, which will themselves be promoters of the disorder. The country requires something that will regulate the State banks." That "State banks and their operations are to be controlled and not the controlling power, in the execution of such a design."

Now, sir, I affirm that there is no power given to Congress, by the constitution, to create such a regulator. I am not about to go at large into the question of the power of Congress, under the constitution, to create a bank. The power, I will, however, say, is maintained by its advocates, upon the exclusive ground that a bank is necessary as a Government agent in the execution of some express power. The power has never been placed, even by the boldest of its advocates, upon the ground that such an institution was necessary to regulate and control the paper currency of the States. This startling doctrine is now, it is believed, for the first time assumed in an official paper emanating from and having the sanction of a minority of a committee of this House. What are the powers of Congress in regard to the currency? Congress may "coin money and regulate the value thereof;" but this they do by fixing by law the value of gold and silver coin; and this power is executed by the mint, and not by the bank. The argument is, that a national bank is necessary as a regulator of the paper currency of the States. If this be so, then Congress have conferred upon a corporation of its own creation, a power which they do not themselves possess. Congress possess no power, either express or implied, to create an

agent to regulate the paper currency of the States. It is a power and a check thrown over the States, wholly unknown to the constitution. To create an arbitrary regulator of paper currency, without a competitor, which may contract or expand its issues at pleasure, is to put in its power the regulation of the money price of the whole property of the country. By contracting its issues it makes money scarce, and, in proportion to its scarcity, the more valuable, and thus reduces the money price of property. By expanding its business it makes money abundant, and raises the price of property. A regulator, without any power reserved anywhere to check or control it, might subject the property of every individual to sudden, great, and ruinous depreciation. Is it safe to commit the value of the whole property of the country to the fluctuations in price which such a regulator, in the form of an irresponsible corporation, may and certainly would produce? We have it from high authority, the president of the Bank of the United States himself, that the State banks exist by the forbearance of the Bank of the United States, and that "there are very few State banks which might not have been destroyed by the exertion of the power of the Bank of the United States." Ought such a power of destruction to be granted to any corporation? Was such a power deemed to be necessary by the framers of the constitution?

In the memorial of the bank for a renewal of its charter, presented to Congress December 18, 1810, the same objections were urged against the employment of State banks that are now heard from those who advocate the recharter of the present bank.

But this argument of the bank did not convince the Congress of 1810, and the recharter was refused.

In a report made to Congress by Mr. Gallatin, then Secretary of the Treasury, on the 10th of January, 1811, upon the subject of the recharter of the old bank, it is expressly conceded that a national bank is not indispensable, either as a government agent or as a regulator of currency. In that report it is furthermore expressly admitted that "State banks may be used" as Government agents, "without any insuperable difficulty." The report states: "That the public moneys are safer by being weekly deposited in banks, instead of accumulating in the hands of collectors, is self-evident. And their transmission, whenever this may be wanted, for the purpose of making payments in other places than those of collection, cannot, with any convenience, be effected on a large scale, in an extensive country, except through the medium of banks, or of persons acting as bankers. The question, therefore, is, whether a bank incorporated by the United States, or a number of banks incorporated by the several States, be most convenient for those purposes. State banks may be used, and must, in case of a non-renewal of the charter, be used by the Treasury. Preparatory arrangements have already

been made to that effect, and it is believed that the ordinary business will be transacted, through their medium, with less convenience, and in some respects, with perhaps less safety than at present, but without any insuperable difficulty." "If, indeed, the Bank of the United States could be removed without affecting either its numerous debtors, the other moneyed institutions, or the circulation of the country, the ordinary fiscal operations of Government would not be materially deranged, and might be carried on by means of another general bank, or of State banks. But the transition will be attended with much individual, and probably with no inconsiderable public injury. It is impossible that an institution which circulates thirteen millions of dollars, and to whom the merchants owe fourteen, should terminate its operations, particularly in the present unfavorable state of the American commerce, and after the great losses lately experienced abroad, without giving a serious shock to commercial, banking, and national credit."

State banks, then, were not regarded by Mr. Gallatin as incapable of doing the public business; and I undertake to affirm, and to prove, that they were not so regarded even by the Congress of 1816, by which the charter to the present bank was granted. It is clear, from that charter itself, that State banks were looked to as depositories of the public money, and were considered competent to perform the duties of fiscal agents of Government. By the 14th general regulation of the 11th section of that charter, it will be found that Congress reserved to itself no power to require the establishment of any branch of that bank in any of the States. They might by law require the establishment of a branch within the District of Columbia. If the bank had failed or refused to establish any other branch in any other place, can it be maintained that the Government would have been compelled to make the whole deposit of its revenue, collected as it is at so many points distant from each other, either in the principal bank at Philadelphia, or its branch in Washington? Had no other branch been established, would these have been the only proper depositories? The same article of the bank charter, it is true, provides that Congress may by law require the establishment of a branch "in any State in which two thousand shares shall have been subscribed or may be held, whenever, upon application of the Legislature of such State," they may be requested to do so. Before Congress can pass a law requiring the establishment of a branch in any State, two contingencies must happen: first, two thousand shares of the stock of the bank must be held by citizens of such State; and, secondly, application must be made to Congress by the Legislature of such State, requesting Congress to pass a law for that purpose. If both of these contingencies shall not happen, Congress cannot require the establishment of such branch. But to show the more clearly that the employment of State banks was

contemplated and looked to by the framers of that charter, the same article further provides that "it shall be lawful for the directors of the said corporation, from time to time, to employ any other bank or banks, to be first approved by the Secretary of the Treasury, at any place or places that they may deem safe and proper, to manage and transact the business proposed as aforesaid, other than the purposes of discount, to be managed and transacted by such officers, under such agreements, and subject to such regulations, as they shall deem just and proper." But though lawful thus to employ State banks, yet no power is reserved whereby to compel the Bank of the United States to do so. If the Bank of the United States had failed, or refused, either to establish branches, or to employ the State banks selected and "first approved by the Secretary of the Treasury," would the Secretary have been compelled to keep the whole public treasure at Philadelphia and Washington? Would not the public convenience have required the selection, by the head of the Treasury Department, of State banks, as the depositories and agents of the Treasury? This had always been done, before that period, by the head of that Department. State banks were at that time, and had been from the earliest periods of the Government, employed as such depositories and agents. Was it intended to limit the power of the Treasury to continue their employment, or to change the practice? Indeed, by the 16th section of the Bank charter, the money of the United States is to be deposited only "in places in which the said bank and branches thereof may be established." In places where there was no bank or branches, the State banks were necessarily to be employed, and they have been ever since, as well as before the date of that charter, so employed. Since the date of that charter, numerous State banks have been constantly employed as depositories in places where no branch of the United States Bank was established; and in some instances, in places in which such branches existed; and this without objection from the bank, or any other quarter, until recently. These provisions of the bank charter, to which I have called the attention of the House, distinctly recognizing, as they do, the employment of State banks, prove, 1st. That the Bank of the United States is not the Treasury! 2d. That it is not the only legal or proper depository of the public money; and, 3d. That, in the opinion of the Congress of 1816, State banks were to continue to be employed; that they contemplated their employment by the Treasury; and that even the authors of the bank charter themselves regarded them as competent fiscal agents, able to perform, as they had in fact before that time performed, all the duties and services required by the Government.

The argument, then, so much relied upon to prove the incompetency of the State banks, and the necessity for a national institution, as a Government agent and regulator of currency,

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seems to be not only without just foundation, but to be wholly disproved, both by the authorities cited and the practice of the Government from the date of its organization. I hesitate not to affirm that the State banks, if banks are to be employed in aid of the Treasury in the collection and disbursement of the public revenue, are as competent as any national institution can be. The supposed necessity for a national institution to perform the double function of public agent and regulator of the currency, being unsustained upon any principles of sound reasoning or constitutional construction, can constitute no solid objection to the proposed employment of other banks, or to regulations by law, "prescribing the mode of selection, the securities to be taken, and the manner and terms on which they are to be employed."

I shall briefly call the attention of the House to the details of this bill. The bill provides, 1st. "The mode of selection;" 2d. "The securities proper to be taken;" and, 3d. "The manner and terms on which they are to be employed." By the existing law, the Secretary of the Treasury possesses the power to select the banks of deposit, to prescribe the terms and conditions of their employment, and to discontinue at pleasure. The bill continues the power of making the selections in the first instance to the Secretary of the Treasury, upon certain terms and conditions prescribed, but when once selected, he is, by the 9th section, expressly prohibited from discontinuing any such bank as a depository, "so long as the said bank shall continue to do and perform the several duties and services required to be performed" by the bill, and "so long as said bank shall continue to be in all respects a safe depository of the public money." It is only for failure or refusal, on the part of any bank of deposit to perform the duties and services prescribed and stipulated to be performed, or that it shall have so extended or conducted its business as to render it an unsafe depository, that the public moneys which it may hold on deposits are to be removed. And if Congress be in session, it cannot even then be discontinued without the "approbation of Congress previously obtained." In the recess of Congress, the Secretary of the Treasury is authorized to remove the public moneys for the causes only already stated, and in that case is required to "report to Congress, at the commencement of the next session, the facts and reasons which have induced such discontinuance." By another provision in the bill, the power is expressly reserved to Congress at any time to pass a "law for the removal of the public money from any of the said banks." The power reserved to Congress to remove is absolute. Congress may by law order a discontinuance of any of the selected banks as depositories, at its mere will. The Secretary, by the provisions of the bill, possesses no such power. He can only remove the public money from their keeping for the causes

specified in the bill, and which have been already stated. So long, therefore, as any bank selected as a depository shall perform the stipulations of its contract, and shall remain in a safe condition, it will hold the public money on deposit, not at the pleasure of the Executive, but independent of him. Neither the original selection, nor the continued employment of these banks by the Treasury, under such circumstances as the bill provides, can by possibility be used as a Government patronage, to control or in any degree influence them in their operations.

The power of making the original selections was continued in the head of the Treasury Department—first, because the general management of the finances, and the safe-keeping and disbursement of the public money according to law, appropriately belongs to that officer, and have always been confided to him; and, secondly, because the selections could be made by him as conveniently, and with as much safety to the public, as regards the security of public money, as by any other officer. It is true that Congress might, by law, designate the banks in which the public moneys shall be kept. And the committee who prepared this bill, in their report, state that "there could be no objection to that mode, provided it be deemed practicable to make the selections in such manner as to protect and preserve the public funds to be deposited therein." It was believed, however, that Congress, from its numbers and organization, could not so conveniently ascertain the condition and safety of the banks to be selected as the principal officer of the Government. Another suggestion has been made, and that is, that all the banks at the point or place where the revenue may be received, and which may be found to be in a safe condition, shall be employed in proportion to their respective capital. The objection to this plan is, that it would too much disperse the public funds, produce unnecessary complication in the accounts of the Treasury, and some inconvenience in making disbursements, especially of large amounts, for the public service. The plan adopted by the bill continues to the Secretary of the Treasury the power of making the selections with the restrictions over his power of discontinuance already stated. He is to select "such of the banks, incorporated by the several States, as may be located at or convenient to the points or places at which the revenues may be collected;" and at the principal points of collection, in the principal cities, where large amounts are received, he is required to select at least two banks, provided that they be, "in his opinion, safe depositories of the public money, and shall be willing to undertake to do and perform the several duties and services, and to conform to the several conditions prescribed by the bill."

2d. The bill next provides "the securities proper to be taken." Before any bank shall

be selected, the third section requires that the Secretary shall be furnished with a full statement of its condition and business, that he may be enabled to judge of its safety. Being first satisfied from an inspection of such a statement, and from other sources of information within his reach, that a given bank would be a safe depository, and would be willing to receive the public money on deposit, upon the terms of the bill, he is authorized to make the selection; and by the 8th section he is authorized to enter into contracts with the selected banks. With a view to the continued safety of the public funds in any of the selected banks, he is authorized to require them, as one of the conditions upon which they are to hold the public deposits, that they shall furnish from time to time, as often as required, not exceeding once a week, such statements of their condition and business, and shall also agree to permit an inspection of the general accounts in the books of the bank, as shall relate to such statements. And as an additional security to the public, the Secretary is, by the 7th section, authorized, whenever in his judgment the same shall be necessary, to take additional or collateral security for the safe-keeping of the public moneys deposited in any of the selected banks; and for the faithful performance of the duties and services which any such bank may by its contract have stipulated to perform.

3d. The bill provides the "manner and terms" on which the banks selected are to be employed.

They are, 1st. To credit the Treasury for all deposits as specie.

2d. To pay all checks, warrants, or drafts, drawn on such deposits, in specie, if required by the holder thereof.

3d. To pay its notes and bills in specie on demand.

4th. To furnish the Government the necessary facilities for transferring the public funds from place to place within the United States and the Territories thereof, and for distributing the same in the payment of the public creditors, without charging commissions or claiming allowance on account of difference of exchange.

5th. That no bank selected as a depository of the public money, shall, after the 3d of March, 1836, issue or use any note or bill of less denomination than five dollars.

These several conditions and terms of employment are at once self-evident, and will require that I should add but a word or two by way of explanation. The general scope and tenor is, to make the public money, wherever deposited, equal to specie, and to secure the transmission of funds from place to place, where money may be required to be disbursed, free of expense to the Government, and by making it the interest of the deposit banks in consideration of the use of the deposits, when not called for for the public service, to induce

them, after a given future day, to cease issuing small notes, and thereby gradually introduce in their stead a metallic circulation. At a still more distant day it may be proper to extend the latter condition to banks issuing notes or bills of a less denomination than tens or twenties, but it was not deemed necessary to embrace such a provision in this bill. If it be deemed expedient, Congress may hereafter extend the law (should the bill pass) in this respect.

With a view to attain the same end, the bill contains a further provision, that, after the 3d of March, 1836, the notes or bills of no bank shall be received in payment of debts due to the United States, which shall, after that date, issue any note or bill of less denomination than five dollars. In regard to the banks of deposit it is imposed, as a condition upon which they shall be employed, that they shall, after a given future day, cease to issue or use small notes; and in regard to all specie-paying banks, the deposit banks included, it is made a condition upon which the United States will agree to receive their notes or bills in payment of public dues. The latter provision is but a modification of the joint resolution of Congress of the 30th of April, 1816, under which the notes of solvent specie-paying banks are now received in payment to the United States. That resolution prohibits the collectors of the revenue from receiving any thing but the legal currency, (gold or silver coin,) the notes of the Bank of the United States, or the notes of such other banks as may redeem their notes in specie. This resolution of 1816, by prohibiting the receipt of the notes of any bank which does not redeem its bills in specie, makes it the interest of all banks which wish to obtain general credit and circulation for their notes, by having them received in payment of the revenue, to continue the payment of specie for their notes on demand; and so this provision in this bill is designed to make it the interest of all banks, which desire to obtain for their notes a like general circulation and credit by having them received by the United States in payment of debts, to cease to issue small notes. This provision cannot be regarded as an attempt, on the part of Congress, to regulate the paper currency of the State banks—for the constitutional power to do this has already been denied—but as a declaration on the part of Congress of what kind of money shall be received in payment of public dues. This power Congress have a clear right to exercise; and if, as a consequence flowing from such declaration, the State banks shall voluntarily co-operate, and, for example, resume specie payment, as most of them did shortly after the resolution of 1816, or as they may, should this bill become a law, cease to issue small notes after March, 1836, in order that their other notes, of other denominations, may be received by the United States—such a consequence would be a legitimate one: and yet, in

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another case, would Congress have interfered to regulate the paper currency which they issue. If all the State banks, after the resolution of 1816, had suspended specie payment, as they might, the revenue would have been collected in coin. They chose, however, voluntarily, to pay specie for their notes; and, as they did so, the United States permitted the notes of many of them to be received. And so, if this bill shall pass, and the State banks shall, after the 3d of March, 1836, voluntarily continue to issue small notes, their notes of other denominations will not be permitted to be received by the United States; but if they choose to cease the issuing of such notes, then their other notes may be received in payment. It is wholly voluntary on the part of the State banks. They may or may not continue to pay specie; they may or may not cease to issue small notes. There is no attempt to check or control them by Congress. If they voluntarily cease to issue small notes after the day mentioned in the bill, and it is believed most of them, and especially those of large capitals will, it is not doubted that the currency they circulate will be in a sounder state, and the country gradually furnished with an increased metallic circulation, to fill the vacuum occasioned by the withdrawal from circulation of the small notes at present issued by them.

An amendment of the existing laws, regulating the relative value of the gold and silver coins of the United States, and the value of foreign coins, constitutes an important part of the scheme of currency of the Secretary of the Treasury, as communicated in his letter to the Committee of Ways and Means—and which accompanies their report with this bill. But as the subject of regulating the value of the coins is embraced in other bills upon your table, I will reserve any thing further which I may have to say upon the subject of the currency, (if, indeed, I shall say any thing,) until those bills come up for consideration.

The bill contains another provision: that the Secretary shall annually report to Congress the banks in the employment of the Treasury—and that, until other selections are made by him, the banks at present holding the deposits shall continue to be the depositories. It will be at all times in the power of Congress, by calls made upon the Secretary, to know the amount of public money in each, and the state and condition of each, as regards its safety.

I have now gone through with the substantial details of this bill. Should it pass, I believe its provisions such as fully to guard and secure the public money deposited and to be deposited in the State banks.

Mr. FOSTER asked the indulgence of the House while he stated briefly some of the reasons which determined him in the vote he should give on the bill under consideration. He had very much desired, at an earlier period, to have presented his views at large,

on the great subject with which this bill was connected; but, in common with many other gentlemen, he had been cut off by that unsparing weapon, the previous question. Of this he should not now complain; he had no doubt that those by whom the former debates had been arrested had very good reasons for the course they pursued, particularly those who had been allowed a day or two to express their own opinions; and it was far from his intention either to deny their rights or question their liberality. But, as he had thus been deprived of the opportunity of justifying the votes he had been called on to give, he should avail himself of this occasion to do so. He should not, however, attempt to go into a general discussion of the subject, but to confine himself to a few prominent points.

Mr. F. said he belonged to that small minority in the House who had been so frequently charged with inconsistency in maintaining the unconstitutionality of the bank charter, and yet advocating a restoration of the public deposits to the bank; a measure which, it is alleged, is directly calculated to effect a renewal of the charter of that institution.

Mr. F. begged leave to refer the House to the votes which he had heretofore given, as the best evidence of the sincerity of his opinions as to a recharter of the bank. Two years ago he had voted, in all its stages, against the bill providing for the recharter. He voted for the resolution reported by the Committee of Ways and Means, during the present session, declaring that the bank ought not to be rechartered; and he should give a similar vote whenever the same question was presented to him, so long as the constitution remained as it now is. He denied that Congress had the right to grant such a charter; and until the power was conferred by an amendment of the constitution, the policy or expediency of such an institution were questions into which he should not inquire. And Mr. F. would here remark that, if he could persuade himself that the decided majority who voted for the resolution declaring that the bank ought not to be chartered acted on the same considerations which influenced him, he should regard the decision as a great triumph of constitutional principle. But he would not deceive himself; he could not flatter himself with any such belief; he should not affect to enjoy such a triumph. What are the facts? Are there not members of this House now voting that the bank ought not to be rechartered, who, two years ago, voted for the bill renewing the charter? And can it be supposed that these gentlemen have any constitutional scruples as to the power of Congress over the subject? It is not long since the Legislature of one of the most important States of the Union, (Pennsylvania,) by an almost unanimous vote, declared that the bank ought to be rechartered; and now (Mr. F. hoped he should give no offence

by this allusion) some of the members of that Legislature, who expressed that opinion, having been transferred to seats on this floor, vote that the bank ought not to be rechartered. Many other gentlemen, too, who readily gave the same vote, have no hesitation in conceding to Congress the power, and are decidedly in favor of such an institution. Mr. F. was therefore deprived of the high gratification which the vote on the resolution to which he had alluded was calculated to afford.

Mr. F. objected to this bill, because it was giving the sanction of Congress to what he considered the illegal act of the Executive in removing the deposits. But more than this: it not only acquiesces in, but carries out, the principles assumed by the President in his "cabinet paper," and more distinctly claimed in a document which has acquired some notoriety, commonly called the protest. What were those principles? Why, that the Secretary of the Treasury is an executive officer, and therefore entirely subject to executive control; and that whatever power is conferred, or duty imposed, on the Secretary by Congress, is to be executed under the supervision and direction of the President. The President has indeed gone farther with regard to the public money, and claims not only that its custody belongs to the Executive department, but that "Congress cannot take it out of the hands of that department without an assumption of executive power, and a subversion of the first principles of the constitution." Mr. F. did not intend to enter here into an examination of those extravagant and alarming pretensions; the short time which he felt himself justified in occupying, at this late hour of the session, would not allow him to do so; nor was it at all necessary for his present purpose. He merely wished to call to the recollection of the House the ground assumed by the President in affirming his right to control the Secretary of the Treasury in the exercise of whatever power was conferred on him by Congress, and the avowal of his determination to exercise this right, and then to point out the sanction we are now called on to give to this claim of power. In the very first section of the bill under consideration, the Committee of Ways and Means propose to provide "that it shall be the duty of the Secretary of the Treasury to select and employ, as the depositories of the money of the United States, such of the banks incorporated by the several States," &c. Here, then, with fair notice of the right asserted by the President, the committee propose so to regulate the deposit of the public moneys as to place them entirely within his custody and control. It was indeed somewhat remarkable, that, with this claim of power staring them in the face, and with the professions so repeatedly made, that the great object was to guard the public treasury, and place it beyond executive interference, the committee should have thought proper to apply

to the Executive to prescribe these safeguards, and suggest the regulations necessary to be made. Yea, sir, said Mr. F., the committee state in this report that "they deemed it proper, in a matter of so much importance, to ascertain from the Secretary of the Treasury his opinion and views in regard to the regulations proper to be adopted in the employment of the State banks as the depositories of the public money;" and they report to the House the Secretary's letter, upon the suggestions of which this bill is framed; and as, by the new executive creed, the Secretary is entirely under the control of the President, this letter has doubtless received his approbation; so that we are now furnished with an executive project for regulating the custody of the public money, which is to be matured by Congress; and, as might have been expected, the Executive, in perfect consistency, contemplates by this project such regulations as will leave the depositories to its selection and employment, and thus secure the custody which it claims.

Mr. F. said there was a striking coincidence which he begged leave here to notice. He was not able to refer to dates, not having the papers before him, (he regretted he had not;) but his impression was, that no great length of time intervened between the call upon the Secretary of the Treasury by the committee, his reply, and the protest. Thus, while the administration was asserting its claims to the custody of the public money to one branch of Congress, it was submitting to the other its scheme for carrying them into effect.

And here, Mr. F. said, the reasons against the act of the President, in removing the deposits, were most strikingly illustrated. By his very act the President had acquired a control over the public money, which could not be divested unless Congress should pass just such a law on the subject as was agreeable to him. He suggests, to be sure, (or the Secretary of the Treasury does,) that provision be made for depositing the public money in the State banks, under regulations to be prescribed by Congress; but the very bill submitted to us, providing these regulations, concedes to the President the very power which he claims. And does any gentleman believe that any act which does not virtually contain this concession can be passed, except by the vote of two-thirds of both Houses of Congress? For instance, if the power and duties assigned by this bill to the Secretary of the Treasury were conferred on, and confided to, the Commissioners of the Sinking Fund, does any one imagine that the act, if passed by Congress, would receive the sanction of the President? No, sir; having declared that "the custody of the public money cannot be taken from the Executive without violating the first principle of the constitution," he certainly would put his veto on any act proposing to confide this custody to other hands.

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But, although Mr. F. was opposed to the power proposed to be yielded by the bill before the House, he desired to have it amended, so that, if it passed, there should be nothing left to misconception. The bill proposes (as already remarked) to authorize the Secretary of the Treasury to select and employ the banks of deposit. Now, as we were forewarned that the President will claim and exercise whatever power is conferred on the Secretary, Mr. F. should move, at a proper time, to amend the bill by striking out the words "the Secretary of the Treasury," in the first line of the first section of the bill, and inserting, in lieu thereof, "the President of the United States;" so that the authority intended to be conferred should at once be conferred on the functionary by whom it is claimed, and under whose direction and control, even if the bill passed in its present shape, it would be exercised. Mr. F. had nothing to conceal; he had always found a straight-forward course the safest, and certainly the most honorable. He wished to see if Congress was disposed to yield to the Executive the power it had claimed; and, if so disposed, he hoped it would be expressed in plain, intelligible language; he wanted nothing uncertain, nothing equivocal. Let not gentlemen seek to obtain, by indirection, that which they will not openly advocate. If they intend to yield this power to the President, as they certainly will by the passage of this bill, let them say so, that the people may understand it; though against such a concession of power, as well as against the claim set up to it, Mr. F. took occasion, before this House and this country, in language now consecrated by authority, to enter his "solemn protest."

Mr. F. had objections to some other of the details of this bill. During the discussion of this great subject, the public deposits, he had heard some very powerful appeals made to the friends of State rights. He said he was not only suspected of belonging to that class, but he was proud to avow it; and whenever he heard a call made upon the State-rights men, that call would meet a prompt response. It was under the principles which he had learned in the State-rights school that he felt himself called on to oppose the fourth section of the bill. He begged the attention of the House to the powers proposed to be conferred by that section on the Secretary of the Treasury. The section is in these words:

"That any bank selected and employed under the provisions of this act, as a place of deposit of the public money, shall furnish to the Secretary of the Treasury, from time to time, as often as he may require, not exceeding once a week, statements setting forth its condition and business, as prescribed in the foregoing section of this act, except that such statements need not, unless requested by said Secretary, contain a list of the stockholders, nor the number of shares held by each, nor a copy of the charter. And the said banks shall furnish to the Treasurer of the United States a weekly statement of the condi-

tion of his account upon their books. And the Secretary of the Treasury shall have a right, by himself, or an agent appointed for that purpose, to inspect such general accounts in the books of the bank as shall relate to the said statements: *Provided*, That this shall not be construed to imply a right of inspecting the account of any private individual or individuals with the bank."

It would be remarked, Mr. F. said, that these were not among the conditions which the Secretary was required to make with the banks; but positive requisitions, proposed to be made a law of this Government, on the banks which should be employed. The bank selected "shall furnish to the Secretary of the Treasury statements setting forth its condition and business," &c. Here is nothing like an agreement; it is imperative. It is the language of command. It is the language of law. True, there was no penalty attached to a failure or refusal to comply with such requisition; but, once admit the right of Congress to make the requisition, and the right to prescribe a punishment for the violation follows as a necessary consequence. And where, demanded Mr. F., did Congress derive the right to make these requisitions of corporate bodies, existing under the authority of the States? He denied that any such right existed; and it was the imperious and especial duty of those who were for preserving and protecting the rights of the States to resist, at the threshold, such assumption of power.

There were some other provisions of this bill which Mr. F. could not pass over without at least a slight notice. By the ninth section it was provided, among other things, that, in the recess of Congress, the Secretary of the Treasury may, under certain circumstances, withdraw the public money from the banks in which it shall be deposited; in which event it shall be his duty to "report to Congress, at the commencement of its next session, the facts and reasons which have induced such discontinuance. This power of withdrawal was, under the new theory, to be exercised entirely under executive discretion and direction; and Mr. F. hoped that the same amendment which he had suggested to a previous part of the bill, that of inserting the President instead of the Secretary of the Treasury, would also be made here. For, if the bill should pass in its present shape, and the President should order a withdrawal of the deposits from any of the banks, for reasons which he might not feel willing to have too closely examined, and should, therefore, forbid the Secretary of the Treasury from communicating the reasons to Congress, how could this requisition be enforced? The Secretary, although willing to comply with the law, would know that his disobedience of the President's order might subject him to the removing—the "reforming" process—and we shall not always find officers who will perform their duty and incur the penalty. Mr. F., therefore, submitted to gentlemen the utter uselessness of making requirements which the very passage of the bill

containing them, taken in connection with other occurrences, would amount to a virtual acknowledgment that they could not enforce.

Mr. F. was decidedly opposed to the tenth section of the bill. That section provides "that, until the Secretary of the Treasury shall have selected and employed the said banks as places of deposit of the public money, in conformity with the provisions of this act, the several State and District banks, at present employed as depositories of the money of the United States, shall continue to be the depositories aforesaid, upon the terms and conditions upon which they have been so employed." Mr. F. would here remark, that if the Secretary of the Treasury, or rather the President, had the power of depositing the money in the local banks, as had been done, and the power of entering into the contracts which had been executed, the contracts made with those banks were already legal; it required no act of Congress to give them validity; and he could but regard this proposition as indicating some misgiving, on the part of the committee, as to the legality of these transactions. Mr. F. objected to the provisions, because he considered them illegal, and was opposed to thus giving the sanction of Congress to unauthorized acts of public officers.

But Mr. F. would not longer detain the House with an examination of the details of the bill. He had only to repeat, what he had already frankly stated, that he could not vote for a law, in any shape, to deposit the public money in State banks, during the continuance of the United States Bank charter, provided the United States Bank was able to comply with its contract for the safe-keeping and transfer of the public money. Were he to do so, he should consider himself as sanctioning, not only what he regarded a violation of the plighted faith of the Government, but also a violation of the law of the land. The President had openly announced to the world, that the act of removing the deposits was his own; he assumed the responsibility; and, for one, Mr. F. could not consent to share it with him; he would, in no way, sanction or ratify the proceeding. Be the consequences what they may, he would have neither part nor lot in the matter.

Mr. WILDE said: In brevity he hoped to rival the honorable chairman of the Committee of Ways and Means, (Mr. POLK;) in close adherence to the subject, he aspired, if possible, to surpass him. There were times, he thought, when the gentleman discussed the Bank of the United States rather than the deposit banks. It was, perhaps, difficult to separate them; and sometimes expedient to bespeak favor by flattering prejudice and odium. Party tactics seemed to consist in directing all your strength against what are supposed to be the weak points of your adversary, taking no care of your own. Accordingly, the Bank of the United States, though already slain, as we are told, by the Hero, is daily reslain by the humblest of his followers, while the pet banks and Post Office

are left to shift for themselves. The gentleman had done him the honor to advert to some remarks of his during a former discussion. This topic, from the manner in which it had been treated, required, no reply. Mr. W., at the time referred to, had expressed plainly what he felt strongly, but having said what he thought, was too fond of his own repose to harbor ill-will to any one. If the gentleman had satisfied his conscience on the occasion in question, by the belief that he was merely performing an honest act of public duty, Mr. W. would be the last to disturb its tranquillity.

The House had voted—

That the Bank of the United States ought not to be rechartered:

That the deposits ought not to be restored:

That the deposits in the State banks ought to be regulated by law.

This bill, then, is the regulation proposed; the sanction of the Secretary's act; the adoption of the executive policy; the legislative recognition and approval of the President's experiment. This, we have heard from high authority, is the only measure of relief the country need expect. As to the people, indeed, we are assured their distresses are imaginary. They only require to be relieved of the panic-makers. The approaching adjournment will do that. "The Government," feeling no distress, (except in the Post Office,) can get on without this bill, having the custody of the treasury already.

This assurance is consolatory. But why, then, must we be goaded to its adoption? The spirit of party, he hoped, might be satisfied with the implied, equivocal, negative sanction we have given to the past by only not condemning it. Shall we be urged—would it be prudent to urge us farther? If we pass this bill, we make all that has been done our own. There are reasons for acting on it definitely, however. All sides of the House feel that. The country is tired of evasions. The friends of the administration are, in some degree, pledged to pass it through this body. They will do it the more readily, because it is sure to fail in the other. They desire the Senate shall reject it, so as to incur the odium of defeating a measure which is to put an end to corruption, and give us a better currency than the United States Bank. Every true believer expects the fulfilment of the prophecy with impatience. If the Senate will not pass it, the prediction cannot be falsified.

Besides, the state of parties may change. Responsibility assumed, may be enforced. The custody of the treasury, with our friends in power, is safe and easy. Rendering an account of its seizure and deficit, to our adversaries may be less pleasant. On the other hand, the opposition may desire to see the administration commit themselves and their friends to this measure. They may hope, if it passes, that the Senate will amend it, and send us something better. Perhaps they deem the worst measure which the Government can adopt better than

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perpetual inactivity and subterfuge. Before it passed, however, he wished to point out a few errors and defects in its provisions, some of which its friends, if they regarded their own principles and pledges, were bound to remedy. He did not propose to treat the subject in detail, but to examine its main features. What the members of the House desired, at this stage of the session, was not an argument in form, most logically prolix, but facts and hints, the materials for thought, out of which each man for himself would work out his own conclusion.

In the first place, he thought the selection of banks, to be employed as depositories, might be made, and ought to be made by Congress. He did not perceive any insuperable difficulty, and nothing less should prevent it. The committee themselves admitted there could be no objection to that mode, provided it be deemed practicable to make the selections in such a manner as to protect and preserve the public funds. And why not practicable? Have we not the same sources of information as the Secretary? Where are the returns of the State banks? Cannot we invite further information; raise a committee; or take any other measure that may be requisite? Which do we distrust, our integrity or our discretion? Why must we delegate this important power and duty to the Secretary? Are we invited to stultify or to stigmatize ourselves? For his own part, said Mr. W., if there must be a selection, he would not surrender the right of Congress to make it. He feared giving it up might be construed into an admission of the President's claim to the custody of the public money. He did not mean, by any act of his, to lend the least sanction to the doctrines of the protest, text or gloss. He did not intend to discuss those doctrines. Time would be wanting. On that topic, if the gentleman from Tennessee was not satisfied with the arguments of the distinguished Senator from Massachusetts, (Mr. WHEELER,) he must leave him to discuss the matter with his own friend, the gentleman from Virginia, (Mr. WISE.)

Mr. WILDER next objected to the bill, that it required no compensation from the State banks for the use of the public money. The Bank of the United States paid the nation for the privileges it enjoyed. The bonus distributed over the period of its charter was equivalent to eighty or ninety thousand dollars annually, and now it is proposed to give gratuitously to the State banks what the United States Bank had only by paying for it.

Some gentlemen there, Mr. W. said, would be surprised to learn that this bill contained no security against the dangers of foreign capital and foreign influence. They had heard much of the mischiefs arising from these causes in the Bank of the United States, and he certainly expected that one of the first propositions in the regulation of the State banks would have been the exclusion of all those any part of whose capital was owned by foreigners. But the bill contained no such provision. It was

not for him to offer any amendment of that kind. His opinion had been already expressed. The benefit arising from the employment of foreign capital, he believed, was mutual. We have the use of the money which we want, and the lenders the interest which they want. As to foreign influence, he thought the danger imaginary. The action and reaction must be equal. When we have borrowed their money, it is their interest we should prosper, and we have security against them for the peace. But it did appear to him that, if gentlemen intended to be true to themselves, if they meant to be thought earnest and sincere in their oftentimes-repeated denunciations of foreign capital, now was the time to prove their sincerity. If there was danger in the Bank of the United States, where foreign stockholders have no vote, how much more must there be in State banks, many of which are under no such restriction? Neither can we be assured that the Secretary of the Treasury will make such a selection as to exclude banks with foreign capital; for in one of the banks already selected, he was informed, a foreign nobleman was one of the largest stockholders. In another State the whole capital of a bank has been raised by foreign loan; and, if he was rightly informed, that loan was secured by a mortgage of the real estate of the stockholders.

A provision which he did think ought to be inserted in the bill was one to distribute the amount of deposits, and limit the use of transfer checks. If the use of the public treasure must be granted to the State banks gratuitously, the banks of all the States should share the benefit with something like equality. Why should the banks in New York or elsewhere have an advantage in this respect? He mentioned New York with no invidious feeling, but merely because the largest amount of revenue being collected there, the banks of that State would have the largest amount of deposits, unless they were required to be distributed. Why should Virginia, and Ohio, and North Carolina, and Georgia, be excluded from their fair proportion of that fund to which they contributed their fair proportion? He was not prepared to say that a very exact distribution could be effected, but a rule might be found, in the representative population of the States, sufficiently near for justice and convenience.

As to transfer checks, if the abuse of them were not limited, every bank employed would be at the mercy of the Secretary, and an unbounded field of favoritism and corruption would be opened.

Mr. W. would draw the attention of gentlemen to another omission in the bill. It not only failed to provide for any examination of the State banks coextensive with that to which they insisted the Bank of the United States ought to submit, but it failed to provide for any examination by Congress at all. How gentlemen who maintained the power of a committee of Congress to make a secret inquisito-

rial scrutiny into the individual accounts and private correspondence of the Bank of the United States could reconcile it to themselves deliberately to give up all right to order any examination whatever of those State banks to which the public money is to be lent gratuitously, in such proportions as the Secretary may direct, it was not for him to conjecture. By the bill, as it stands, the Secretary may examine or appoint an agent to examine, but Congress would have no power to appoint a committee for any such purpose. He respected the sanctity of private correspondence; he approved the inviolability of individual accounts secured by this bill. The provision was a bitter commentary on the conduct of the gentleman's own party; for if the individual accounts and private correspondence of the State banks were to be sacred, why not those of the Bank of the United States? A committee of the gentleman's friends had reported resolutions to attach the president and directors of the Bank of the United States for asserting the principle ingrafted on this bill, and the gentleman sustains that report and this provision.

Mr. W. desired private rights should be carefully respected, but he was not willing Congress should be deprived of all power to examine into the condition of the selected banks. With respect to the Treasury, the Executive had indeed almost become a unit, and Congress a cipher; he would not make it utterly so.

The next objection to the bill was, Mr. W. said, to his mind, a capital one. The selected banks were not required to receive each other's paper, even for duties or debts due the Government. The consequences were inevitable; a multiplicity of local uncurrent currencies, each circulating only in its own narrow circle, and stagnating everywhere else, all depreciated in comparison with coin, and unequally depreciated with reference to each other. A paper receivable everywhere at par is to cease, and duties collected in an unequally depreciated medium are no longer to be uniform, in despite of the constitutional injunction.

That part of the bill which provided that the Secretary, for sufficient cause, might remove the deposits during the recess, and assign his reasons to Congress, wanted explanation. It was not said what was to be the effect of Congress approving or disapproving—what was to be the consequence if one House approved and the other disapproved. The clause is like that of the sixteenth section of the charter of the Bank of the United States. If the meaning of it is that, unless Congress approve, the act of the Secretary is annulled, then we may save ourselves all further trouble. The construction of the sixteenth section must be the same, and Congress have not yet approved the act of the Secretary in removing the deposits from the Bank of the United States. Of course, they must go back again, and this bill is unnecessary. If this is not to be the construction, what is it? That the act of the Secretary, not being ap-

proved by Congress, or being approved by one House and disapproved by the other, shall nevertheless stand good? Or is it that the Secretary shall merely report his facts and reasons, and there the matter ends—Congress having nothing to do with the facts and reasons reported, but to listen to them? Will the gentleman favor us with a true interpretation?

When Mr. WILDS had taken his seat,

Mr. GORDON said that it was due to that portion of the House who were opposed to the recharter of the United States Bank, and who, nevertheless, disapproved of the course of the Executive in removing the deposits, that some of their number should submit a plan which should be conformed to their views of this very important question. It seemed to be a point given up, that the present Bank of the United States was not to be rechartered; and that, so far as the action of that House was concerned, the deposits were not to be restored to the custody of that institution; and a scheme had thereupon been devised, which seemed as unsatisfactory to the friends as to the opponents of the measure, by which the public money had been withdrawn from the bank. It was said to be the opinion of the President that it was extremely desirable the revenue of the United States should be collected in specie and not in paper; and in connection with which opinion the House had heard a new name applied to specie: it had been called "Jackson money." He now called upon all who were in favor of "Jackson money" to go with him in support of the old-fashioned, constitutional notion of a hard-money Government. His object was to disconnect the Government entirely from the system of banks, whether State or federal. It must be obvious to every man acquainted with the times, that the country could not get on with its present paper circulation. The Bank of the United States, the great federal monster, closed its doors against all investigation of its concerns; and to rely upon such an institution was to sap the foundations of public liberty. The advocates of the State banks could not propose a system that was satisfactory even to themselves. All attempts to control State banks were contrary to the constitution. All the House could do was to restore the public deposits to the authority of the Treasurer of the United States. They had no right to commit their funds to the State banks; they formed an instrument of power which he should be very sorry to see put in the hands of the Government. The country was in a very unfortunate condition. An interminable war had been declared by the President of the United States against the Bank of the United States; but who could doubt that a very different state of things would have taken place if the bank had thrown its vast power into the aid of the Executive? And should he succeed in substituting any combination of banks in its stead, and consequently in obtaining a control over their interests, it could not but prove a

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most dangerous instrument in the hands of any Chief Magistrate. It would enable him to tamper with the pecuniary affairs of the States; and though its management might require more address than would be requisite to attain the control of a single institution, yet the consequences would be equally dangerous to the security of liberty. Whichever way the friends of a limited and constitutional Government turned their eyes they saw equal dangers in the prospects before them. Let them, then, endeavor to simplify the fiscal machine: let them endeavor to get a simple system, which should be subject to the control of Government alone, (he meant the control of Congress,) and which should be wholly disconnected with all paper money of every description. If the various and conflicting opinions of the House could thus be compromised, an achievement would be effected in favor of a limited and constitutional Government such as had never been witnessed before. It must be evident to all, that the whole tendency of Government was to accumulate power. Whenever an election of President was approaching, (and when was it at a great distance?) all great questions of policy were made to bear upon that all-agitating topic. All good men began to tremble for our institutions. Amidst the strife and rude war of such mighty interests, virtue and patriotism shrank back in dismay. But would gentlemen make no effort to diminish this danger? Must there still be a war against internal improvements, a war against the tariff, a war against the Bank of the United States, or against the State banks, altogether distinct from any regard to the happiness of the people? Was the President and the bank left to be in deadly conflict? Must there be no end to these political contests? Who could go home, and leave things in their present condition, and not apprehend the worst consequences? He called upon the House to make a generous, magnanimous effort to free the country; he invited, he invoked them, to give up something of their party prejudices, and to unite together to steer in a safe, middle course, the vessel of state, now in such imminent danger of rocks on the one side and whirlpools on the other.

He observed that the measure he had proposed was one of extreme simplicity. He should not now attempt to go into the details which belonged to it; if the principle were approved, the details might be easily arranged. He simply proposed to make those who received the revenue the agents for its custody, when not exceeding a given amount, and constituting them the agents, also, for its disbursement. He was aware, indeed, that the members of the House had so long been in the habit of considering matters of revenue as matters pertaining to a bank, that it was difficult, perhaps, for them to admit of any other idea. But Mr. G. did not propose to interfere with the banking principle; he had nothing to do with their notes, whether small or large. Let them regulate

that as they could. He did not interfere with the Bank of the United States. He went only for what was originally intended, and what alone was contemplated by the framers of the constitution, viz.: that the revenue should be collected in coin. Coin was the only legal tender now, yet Government had made paper substantially such. He was for putting an end to this. He was most clearly of opinion that the hard-money system was the simplest and best the Government could ultimately adopt. There might be some objections urged against it. Some gentlemen might apprehend that it would withdraw too large an amount from circulation. But this objection was not well founded. As the duties on imports should decrease, the amount of surplus revenue would be less and less; it would soon be but a few millions. It might be said that the transfers of money could not be made as easily as by a federal bank with branches. All that would be requisite would be drafts from the Treasury, specifying the place where the money should be paid. These drafts would not be at premium, but would pass as money. They would be a substitute for bank paper, and the Government would thus be delivered from its connection with the system of banking; a system which all knew to have a corrupting tendency, and which must be a perpetual instrument of party spirit. The whole world recognized gold and silver as the representative of property; it was the only real money in existence. He hoped to see it the money of this Government.

The amendment of Mr. GORDON was ordered to be printed.

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SATURDAY, JUNE 21.

Death of Lafayette.

Mr. J. Q. ADAMS rose to state that, on coming to the House, he had been informed that, since the last adjournment of the House, intelligence had been received of the occurrence of a calamity which had befallen the whole race of civilized man. He had not time to prepare a resolution fitting such an occasion, but he presumed it would be obvious to every person that it was an occurrence peculiarly becoming the Congress of the United States to adopt some suitable measure to express the deep sense they entertained of the misfortune involved in the decease of one of the most eminent benefactors of the age and of mankind. It occurred to him that such a duty should be discharged in a manner suitable at once to the dignity of the representatives of the people and States of this Union, and to the merits of him to whose memory this tribute should be paid. This he supposed would be in the form of a joint resolution of the two Houses of Congress. He would now, therefore, submit a motion that a committee should be appointed to consider in what manner a tribute of affection and respect may be shown by the Congress of the United States, expres-

sive of the sensibility of the nation on the event of the decease, and of their veneration for the memory of the illustrious General Lafayette.

Mr. A. then offered the following resolution:

Resolved, That a committee of — be appointed on the part of this House, to join such committee as may be appointed by the Senate, to consider and report by what token of respect and affection it may be proper for the Congress of the United States to express the deep sensibility of the nation on the event of the decease of General Lafayette.

Mr. ARCHER rose to suggest that the blank for the number to be appointed on the committee should be filled up with "five" or "seven."

Mr. J. Q. ADAMS would assent to any number the House might think proper to name.

Mr. WATMOUGH suggested the number of thirteen.

Mr. CAMBRELENG proposed that the committee should consist of one member from every State in the Union.

Mr. E. WHITTLESEY expressed his hope that every State would be permitted to be represented on the committee in paying this tribute of respect.

After some further verbal modifications, at the suggestion of Mr. WAYNE,

The committee on the part of the House was, on motion of Mr. HUBBARD, ordered to consist of twenty-four.

The following gentlemen were appointed to compose the said committee:

From Massachusetts, John Quincy Adams, chairman; from Maine, Rufus McIntire; from New Hampshire, Henry Hubbard; from Rhode Island, Tristram Burges; from Connecticut, Noyes Barber; from Vermont, Heman Allen; from New York, O. C. Cambreleng; from New Jersey, James Parker; from Pennsylvania, Henry A. Muhlenberg; from Delaware, John J. Milligan; from Maryland, Isaac McKim; from Virginia, William S. Archer; from North Carolina, Lewis Williams; from South Carolina, Henry L. Pinckney; from Georgia, James M. Wayne; from Kentucky, Richard M. Johnson; from Tennessee, John Blair; from Ohio, Elisha Whittlesey; from Louisiana, Philemon Thomas; from Indiana, John Carr; from Mississippi, Harry Cage; from Illinois, Joseph Duncan; from Alabama, John Murphy; from Missouri, William H. Ashley.

Gold Coin Bill.

After considerable struggle for precedence of business, Mr. C. P. WHITE succeeded in getting a vote of two to one to take up the gold coin bill.

Mr. WHITE, of New York, chairman of the committee on coins, moved to amend the bill by striking out all after the enacting clause, and substituting a new bill, fixing the ratio of the value of gold to silver as 16 to 1. Mr. WHITE made a speech explanatory of his reasons

for the proposed change, which opened a discussion of much learning and great interest.

Mr. SKIDDER went into an elaborate argument in defence of the bill as at first reported, and in opposition to the amendment. He argued to show that the practical effect of the latter be, in a short time, to banish the existing silver currency of the country. He considered the proportion proposed to be established as false in fact, and contended that the true ratio was, not 1 to 16, but 1 to 15 5-8; and he offered an amendment to that effect, as follows:

"Strike out 232 grains, the quantity of fine gold in an eagle, and insert 237 6-10—strike out 258 grains, the quantity of standard gold in an eagle, and insert 264 grains. Strike out 116 and 129 grains, the quantity of fine and standard gold in a half eagle, and insert 118 8-10 and 132 grains. Strike out 58 and 64 grains, the quantity of fine and standard gold in a quarter eagle, and insert 59 4-10 and 66 grains."

Mr. CLOWNEY said: Mr. Speaker, I am truly glad that the honorable chairman of the special committee on coins has thought proper to offer the substitute now on your table, which abandons the scheme of a debased subsidiary currency, as reported in the original bill, and enhances the value of gold relatively to silver in the proportion of one to sixteen. By this amendment, all my objections to the original bill are entirely removed. To raise gold in these United States from its present degraded state as a mere article of merchandise to the rank of a coin destined to become a part of our currency, meets with my most decided approbation. I fully concur in sentiment with the present Secretary of the Treasury, in his late letter to the Committee of Ways and Means, that "the great evil of our present currency is the disproportion between the paper in circulation and the coin prepared to redeem it; and that the first step towards a sound condition of the currency is to reform the coinage of gold."

In these views, the Secretary of the Treasury stands supported by the high authority of several of his predecessors in office, such as a Gallatin, Crawford, Dallas, and Ingham, each of whom in his day, directed his attention to this important subject. He also stands supported by the very able directors of our mint, Messrs. Patterson and Moore, in their various communications to the committees of this House and the heads of the Treasury Department; and also by the repeated reports of committees in both Houses of Congress for the last fifteen years. Why all these efforts to reform the coinage of gold have heretofore entirely failed, it is not my object at this time to inquire. It is sufficient for my present purpose to show that, in the opinion of the most competent judges, a necessity for a change in our coinage has existed, and that it must still exist, as nothing has been done to remove it. I believe I may still go further, and assert, without fear of contradiction, that this necessity not only exists, but that it is

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greater now than at any former period in the history of our country. What is the fact with regard to our present currency? It is, sir, literally a paper currency. The notes of the local banks and the Bank of the United States, now in actual circulation, are estimated by the Secretary of the Treasury at eighty millions of dollars. Out of about seven thousand millions of specie now in circulation in the world, the silver (for gold we have none) in the vaults of all the banks of the United States, federal and local, with which to redeem this eighty millions of paper, does not exceed twenty-five millions. This fact, in connection with the recent numerous bank failures, and the consequent evils every class of the community throughout the Union is now suffering, afford the most convincing proofs of the rotten condition of our present currency, unsupported as it is by a firm and broad metallic basis. Therefore, to restore the currency to a sound condition, and furnish a medium of exchange adequate to the wants of the people, when the Bank of the United States ceases to exist in 1836, and its notes are necessarily withdrawn from circulation, I hold to be amongst the first, highest, and most imperative duties of the present session of Congress.

The particular evils, which it is the object of the bill now under consideration to remedy, are to traced to the act of Congress passed in 1792, establishing a mint and regulating the value of coins. According to this act, three denominations of gold coins are directed to be minted: the eagle, half eagle, and quarter eagle, all of equal fineness; the eagle to be valued at ten, the half eagle at five, and the quarter eagle at two and a half dollars. The eagle is made to weigh two hundred and forty-seven and a half grains of pure gold, or two hundred and seventy grains of standard gold, eleven-twelfths fine; and the half eagle one hundred and twenty-three and three-fourths grains pure gold, or one hundred and thirty-five grains standard; which, added together, makes the weight of these two coins, valued at fifteen dollars, equal to three hundred and seventy-one and one-fourth grains of pure gold, or four hundred and five grains standard. By this same act the dollar is made to weigh three hundred and seventy-one and a quarter grains of pure silver, or four hundred and sixteen grains standard, being fourteen hundred and eighty-five parts out of sixteen hundred and sixty-four fine, instead of eleven-twelfths, as in the gold coins.

Hence we find the relative value of gold to silver, as established by our laws, to be one to fifteen; or, in other words, that the three hundred and seventy-one and a quarter grains of pure gold contained in an eagle and half eagle, are valued by law as worth fifteen times as much as the three hundred and seventy-one and a quarter grains of pure silver contained in a dollar.

The reason which induced Mr. Alexander

Hamilton, the Secretary of the Treasury, in 1792, to recommend this ratio of gold and silver in our coinage, and Congress to adopt it, was because they considered it the average value of the two metals at that time, amongst the principal commercial nations. While I admit the soundness of the principle, and do not feel disposed to deny the correctness of the calculation at that time, yet does the calculation no longer hold true. Since that period gold has evidently risen in value relatively to silver, until their average relative value in the commercial world may be fairly estimated at one to sixteen. The truth of this fact will satisfactorily appear from a table furnished by the director of our mint, to be found in the report accompanying this bill. According to this table, we find that in the coinage of the two metals, in Antwerp, Netherlands, Portugal, Brazil, Spain, and her former colonies in South America, the proportion of gold to silver is 1 to 16; while in Hamburg it is 1 to 16½; in Denmark 1 to 16½; in Sweden 1 to 16 8-7; in Russia 1 to 17; and in Vienna and Trieste 1 to 18. It is true, standard gold to silver, in England, is 1 to 15.7, in France 1 to 15.5, and in Holland 1 to 15.8. But, notwithstanding this legal or standing value of gold to silver in England and France, yet has the relative market value of gold to silver, in these two nations, for a number of years past, considerably exceeded its value at the mint. Mr. Ingham, in his report to this House, while Secretary of the Treasury, in 1830, lays it down as a rule that "it is only from the market price of both metals, without regard to the mint price, the true relative value is to be found." He also states the historical fact, that the average value of gold to silver in England, for the last five years preceding his report, was 1 to 15.81; and in France, for the last thirteen years preceding his report, 1 to 15.82; in addition to this, gold has been frequently in value above this ratio, in England, ever since the year 1819.

Here we find, according to our present mint regulations, that gold is esteemed less valuable in the United States, as a coin, than in any other nation on the face of the globe.

Owing to this circumstance, our gold, whether in the shape of coin or bullion, has, for the last fifteen years, even in England, where its standard value is considerably below that of most other nations, commanded a premium from four to six and three-fourths per cent. The inevitable consequences of such an ill-advised policy or careless neglect in legislation, have long since been experienced in the entire banishment of gold, not only from circulation, but also from our country; and in the complete counteraction of its tendency to return in the course of trade. That these are serious evils, none can deny; and, if so, all must admit the necessity and importance of the immediate application of an appropriate remedy.

Having shown satisfactorily, I trust, that the cause of the present evils in our metallic currency, (the only currency known to our constitution,) is the undervaluation of gold by our laws, it is evident that the nature of the remedy must be to remove the cause of the evils, by raising the value of gold relatively to silver in our coinage. I must confess, however, that although the cause of the evils and the nature of the remedy are obvious, yet, when we come to apply the remedy, we find it an extremely nice, difficult, and complicated question to determine what proportion of gold to silver in our coinage is necessary to place the two coins upon an equal footing in commerce, and insure their concurrent circulation, so that the one may be readily exchanged for the other by tale, to suit convenience or pleasure.

In attempting to fix the value of gold at our mint, with the sole view of introducing it into circulation with silver, so that the one may not be preferred to the other in the payment of debts, a due regard must be paid to the relative value of bullion in the great marts of the world, and more especially in those nations with which we have the greatest commercial intercourse. In addition to this, we must also take into consideration the fact, which the history of the two metals incontestably proves, to wit: the universal tendency of gold to rise in value relatively to silver; and also the fact, proved by the table to which I have referred, furnished by the director of our mint, that much more of the two metals are now coined upon the basis that gold is in value to silver as one to sixteen, than according to any other proportion. It is true, the average market value of gold and silver bullion, or of foreign coins, which are esteemed as bullion in the markets of England, France, and Holland, has been for many years past, and is now, between 15.8 and sixteen to one. But to adopt for our standard the minimum market value of the metals in either of these three nations would be, I am confident, to continue the evils of our present system. Independent of the considerations as to the tendency of gold to rise in value relatively to silver, and the fact that the average proportion of gold to silver in the coinage in much the largest portion of the world is now sixteen to one, the difference in the expense and convenience of exporting gold and silver, added to the advanced value of gold, arising from an increased demand for it, in case it were introduced into general circulation in the United States, would be fully if not more than equivalent to eighty-eight hundredths of one per cent., the difference between 15.86 and sixteen to one. Therefore, am I decidedly in favor of the amendment offered by the honorable chairman of the committee on coins, which makes the eagle weigh two hundred and thirty-two grains pure gold, and two hundred and fifty-eight standard, ninety-tenths fine, which is equivalent to one of gold for

sixteen of silver. I am in favor of this proportion, not from any selfish or local considerations, but because I sincerely believe that it is for the public good that both metals should be coined at our mint, and that nothing short of the proportion proposed in the amendment offered by the chairman of the committee will place the two coins upon a level in the commercial world, and insure their concurrent circulation in the United States.

Mr. GORHAM said it was important that the true ratio of gold and silver should be accurately fixed. If there was too much gold in the eagle, everybody would pay their debts in dollars; if too little, all would pay in eagles. It was very difficult, and a matter of great nicety, to fix their relative value. At first, it had been determined that one ounce of gold was worth fifteen ounces of silver. This continued to be the relative value established by law, from the year 1792 till about fifteen years ago. This continued to be very near the truth for about thirty years, when the proportion had suddenly changed. Whence the change had proceeded it was not easy to tell, probably from an increased production of silver and a proportionable decrease in the production of gold; or because more gold had been employed in the coinage of Great Britain. Whatever the cause might be, the value had risen from fifteen ounces to fifteen and a half and fifteen and three-quarters. That was the very extent. This bill fixed it at sixteen. However the standard was fixed, it ought not to be changed every day. He did not know that it was very essential to change it at all. The present standard had long been found a very good one. But if any change were made, it must be done with the greatest care. It was now only fifteen years since gold and silver were in concurrent circulation in this country, and debts were demanded and paid in either indifferently. And ever since that period, the business of the country had got along very well until the late disturbance on the subject of the currency. The question in this bill, Mr. G. observed, was one purely and wholly separate from all politics. It was a question of business, which rested altogether on different grounds. It was impossible for that House, by any act of its legislation, either to take from or to add to the value of gold. That value was fixed by other things than acts of Congress. The Government might mark its own coin with what value it pleased, but it could not give it that value; and if by law they allowed money to be a lawful tender for more than its value, they immediately affected the obligation of contracts, which they were forbidden by the constitution to do. Their law could no more change the value of gold than it could make gold. The real use of a mint was only to assure the people that the piece stamped was of a certain weight and fineness. If that weight could be stamped in figures, it would be all that was wanted.

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As to the abrasion of the two metals, the same amount of it upon the gold piece which happened to one of silver would be fifteen times as great in value; besides that, silver would actually suffer less abrasion than gold. The gold pieces thus reduced in weight would be kept in circulation; for, whenever the goldsmiths wanted to use money as bullion for purposes of the art, they always choose the heaviest they could get. If the law should make gold too cheap, the country would have no silver circulation; for who would bring silver here on which he must lose two and a half per cent.† We should soon have the same cry about the want of silver coin which there was now about gold. Then the next step would be to tamper with the value of the dollar; and thus the nation would be vacillating in its currency like a boy upon a plank. But, if debts should be paid half in one metal and half in the other, all danger would be done away with.

Mr. G. said he should vote for the amendment proposed by the gentleman from New York, (Mr. SELDEN,) and by that gentleman's consent would append his own motion to his, as an amendment.

[The following is the amendment proposed by Mr. GORHAM.]

Sec. 3. *Be it further enacted*, That from and after the first day of January, 1840, the legal tender for the payment and discharge of all debts contracted or obligations for the payment of money incurred after the passage of this act, shall be one-half in the silver coins and one-half in the gold coins which by law shall be made current in the United States: Provided, however, that any sum less than five dollars, and that fraction or remainder of a larger sum which shall be less than five dollars, may be paid in the silver coins current by law within the United States.

Mr. JONES, of Georgia, said: Mr. Speaker, before I proceed to the examination of the substitute offered by the honorable chairman of the committee on coins, (Mr. WHITE,) and the amendment proposed by his colleague, (Mr. SELDEN,) I will call the attention of the House to the amendment offered by the gentleman from Massachusetts, (Mr. GORHAM,) and adopted as a part of his amendment by the gentleman from New York. Sir, that amendment proposes to make gold and silver coins a legal tender in payment of all debts, in equal amounts—that is to say, one-half of the debt is to be paid in gold, and the other half in silver coins. For one, I cannot give my vote in favor of this amendment. In my opinion, this Government has no authority by the constitution to make any thing a legal tender in payment of debts. To Congress is given the power “to coin money and regulate the value thereof.” To the States is retained the power to make gold and silver, and them only, a tender in payment of debts. I know that some gentlemen believe that when the value of coin is fixed by Congress it becomes neces-

sarily a legal tender, and that the courts will so decide. To this I offer no objection. If such be the legal effect, be it so. One thing, however, is certain: if such be not the legal effect, Congress has no power to make any coin a legal tender; and, if this be the legal and necessary effect, then there is no necessity for Congress to do it. This being the case, it is certainly unnecessary to insert it in this bill.

Sir, the circumstances under which the substitute to the original bill presented by the committee has been offered to the House by the honorable chairman of that committee, require a few observations from me, more especially as that gentleman has been charged by his colleague (Mr. SELDEN) with yielding his own opinion to mine. These remarks are made more in justice to the honorable chairman than myself.

It will be recollected that when this bill was in Committee of the Whole, I consented it might be reported to the House without amendment; and at the same time gave notice I should move to amend the same when it came before the House, by changing the relative value of gold and silver from 1 to 15.625, as reported by the committee, to 1 to 16; in other words, to make one ounce of gold worth 16 ounces of silver. Since that time I have conversed fully, freely, and candidly, with the honorable chairman, and he has consented to present the substitute which is now before the House, and which obviates all the objections which I had to the original bill, and meets with my entire approbation. For his courtesy, and this evidence of his regard to my opinion, he has my thanks, and I have no doubt by this course he has also met the wishes of many of his friends.

In fixing upon this ratio, we shall avoid the extremes on either side. In Russia the ratio is 1 to 18; in Denmark 1 to 16½; in Spain 1 to 16; in South America 1 to 16; in France 1 to 15½; and in England, nominally and legally, 1 to 15.2; but really, as we have seen, 1 to 15.88. If, then, we adopt the ratio of 1 to 16, adopted by all America and proposed by the substitute, we shall have taken the middle course, the course of prudence as well as of safety. *In medio tutissimè ibis* is the language of wisdom and experience.

The great object to be attained in regulating the relative value of gold and silver is to obtain the circulation of both if practicable, as the currency of the country. It is well known and admitted that the value of gold, as now fixed by the law, is such that, so soon as our gold coins can be obtained from the mint, they are immediately exported; and it is earnestly desired to correct this evil. The gentleman from New York (Mr. SELDEN) has told you, if you adopt the substitute our coins will go out of the country when the balance of trade is against us, and when it is in our favor they will return again, and by this

operation our merchants will lose two and a half per cent. I have already shown you that the proposed ratio of 1 to 16 is not one per cent. above the commercial value; and if the gentleman is correct in saying our gold coins will return to us again after they have once left us, I can only say, this is "a consummation most devoutly to be wished." Hitherto, like the tracks to the lion's den, they have been all one way—to Europe, and not one solitary eagle has ever made good its cis-Atlantic flight. The desideratum of which we are in search is to keep the coins in the country, and if this ratio will have the additional effect to bring them back again, it must be considered an additional recommendation to the substitute.

Mr. GILLET said that he must congratulate the House and nation, that Congress, near the close of a session of seven months, devoted, to a great extent, in debates on the subject of the currency, was at last seriously engaged in discussing an interesting and important branch of an undoubted constitutional currency. The interests and wishes of the people of the United States demanded our prompt action upon this subject, and he could discover no reason why those interests and wishes should not be responded to in a satisfactory manner. This bill, as proposed to be amended by his colleague, (Mr. WHITE,) fixes the value of our gold coins, as compared with silver, at 16 to 1, and to coin eagles, half eagles, quarter eagles, and dollars. Another colleague of his (Mr. SELDEN) had proposed an amendment to the amendment, which required these several coins to be of a greater weight. A gentleman from Massachusetts (Mr. GOEHAM) had proposed a modification of the amendment to the amendment, which required, in the payment of all sums over five dollars, that one-half should be paid in gold and the other in silver. To this last amendment he could not yield his assent. It was wholly arbitrary and unjust, and would bear with peculiar hardship upon farmers, shopkeepers, and small dealers, who collected in their business small sums, but who might be compelled to pay out in large ones. It might also apply to collectors of taxes, and others, who collect and disburse the public revenue. An individual might be compelled to pay a large debt at a distant place, and certainly he ought to be allowed the privilege of paying it in that coin which he could the most easily transport to the place of payment. He could see no good that could possibly result from this proposition, and he hoped it would not be adopted by the House. There, then, remained but two questions of importance to pass upon. First, is it expedient to increase the circulation of gold in the country? and, second, is 16 to 1 the proper proportion between gold and silver?

As to the first question, Mr. G. said he thought the true interests of the country called for an increased circulation of the precious metals, and particularly of gold, which was light and portable, and would prove convenient

in the transaction of business, and he was confident the voice of the American people demanded it. He was aware that we had, on another occasion, been told of a currency better than gold and silver, which had been furnished by a corporation. He entertained no such opinion of the productions of any corporation. He preferred a currency recognized by and resting upon the laws of the Union, the value of which should not depend upon the good or ill fortune of a corporation, or its ability to pay its debts, and which should not vibrate, contract, or expand, with the uncontrolled will of a soulless body. Our constitution had given us the "power to coin money and regulate the value thereof, and to regulate the value of foreign coins." This clause of the constitution confers all the power Congress has over this subject. It had been aptly called "a hard-money power." Under this, it was our duty to declare the value of foreign gold and silver, and make such coins as the wants of our country require. It appeared to him to be the duty of Congress to provide that which was most convenient, and such as would be a legal tender in payment of debts. Congress had no power to make any other currency, and if it possessed it, its exercise would be inexpedient. He said he was aware that banks had become so interwoven with the transactions of the country, that it might be impossible to return to an entire specie circulation, if it were expedient to do so. Large transactions among commercial men and bankers might well be in large bills, the representatives of money; but all the minor channels of circulation ought to be filled with gold and silver. Without a broad basis of the precious metals, a secure paper circulation could not be sustained. He hoped to see all small bills retire from circulation, and their place filled with coins. This would place in the hands of the poor and laboring classes a safe and sound currency, which would remain unaffected by the crumbling of rotten banks and the fearful agitations of panics. Then the humble individual whose all might consist of a few dollars would not be injured or alarmed by the cry of partisans and demagogues on the subject of currency. If our circulation had been, during the past year, principally of coins, we should not have heard people advised to demand specie on State bank paper, because all paper but that of the United States Bank was nearly worthless. Nor should we have heard much of panic and apprehended danger. All would have been quiet on that point. Under the paper system, banks have broken, and, he would ask, on whom did the loss most severely fall? Upon the poor, who understood little of the condition and credit of banks. The wealthy usually foresaw the evil and protected themselves. He feared this had even been done at the expense of the poor, but he hoped not often. It was due to the American people that this Congress should change the order

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of things, and give to the people a currency which should not fluctuate in value, as corporations might manage well or ill, or be fortunate or unfortunate. We ought to give them a currency that should be as immutable as the metals of which he proposed to make it.

Mr. BIRNEY said: The important matter before the House, the relative value of gold and silver, had now been brought up for consideration in a way which he could not help regarding as altogether extraordinary. Indeed, the manner in which the House received the proposition was so; for although the effect of a change might be to disturb contracts and prices, and the silver currency of the country, to a great degree, and although it was known that the ratio of 16 to 1, now proposed by the gentleman from New York, was not sustained by any thing that had been ever said by that gentleman before, or by any committee of this House, yet much of the discussion of this morning had passed without the presence of fifty members, a circumstance indicating either great indifference or entire determination upon the matter. It could not have escaped notice, that after the honorable chairman of the committee on coins had given years to the consideration of this matter, and had, at the end of his elaborate reports, presented a bill establishing the ratio of 1 to 15.625 or 15½, and a subsidiary currency in both the metals deteriorated from 5 and a fraction to 3 and a fraction per cent., and had passed it through a Committee of the Whole, without alteration, he had now, without any previous notice, abandoned his whole bill, ratio, subsidiary currency and all, and had come out with a simple enactment for making gold coins in the ratio to silver of one to sixteen, or thereabouts. The honorable chairman had never supported nor suggested such a ratio in any of his reports. In one of them he had said that "the alteration in the quantity of gold representing ten dollars, from 247½ grains to 233½ grains," (and the proposed alteration was still greater, by one and a half grains,) "was an actual reduction of six per cent. from the previously-existing and long-prevailing measure of contracts;" and he had admitted the justice of the remark, that "such a change could not be made without disturbing the balance of intrinsic value, and making every acre of land as well as every bushel of wheat, of less actual worth than in time past." He had also stated it as the final opinion of the committee, that the rate proposed by the Secretary of the Treasury of 1 of gold for 15.625 of silver, was the utmost limit to which the value could be raised, with a due regard to a paramount interest, the preservation of our silver as the basis of circulation. The whole mass of reports might be considered as mainly intended to show "that the standard of value ought to be legally and exclusively, as it was practically, regulated in silver." The chairman now proposed, without giving any reasons at all, an eagle of 232 grains

of fine gold, and a consequent ratio of 1 to 16, to the probable if not certain overthrow of the silver basis. By this extraordinary step he had given away his entire expenditure of labor in those reports, and the House had been left without the aid of any committee whatever. If this had occurred at an earlier stage of the session, the whole subject ought to have been re-committed, that the reasons for the gentleman's change of opinion might have been submitted to the House, and deliberately considered, before acting in so critical a concern.

In his judgment, Mr. B. said, there was nothing in these or in any other suggestions that had been made, to justify the extreme valuation now proposed by the chairman of the committee on coins. In regard to this or any other change in the value, there were two remarks that he would submit to the House. In the first place, he did not entertain the opinion that any change would materially increase the metallic circulation of the country. Gold, however estimated, would not, to any extent, take the place of bank paper, while bank paper was permitted by law to circulate as it now did. A traveller might be induced to take gold for his expenses, if he could not obtain paper that would travel with him without loss; and while gold should be a novelty, a few more pieces might be seen in the pockets of the citizens; but the increase of the mass in circulation from these causes would not be considerable. Wherever gold should come, in the present condition of our bank paper, it would in general displace silver, without adding to it. This was the first remark he had to submit. The other was, that no change in valuation would produce any considerable increase of specie in the banks. Under the proposed change they would have a greater amount of gold, but at the same time they would have a less amount of silver. Nothing would induce the banks, nor could any thing compel them, to keep more of either metal on hand than was necessary to sustain their paper circulation; and what they did keep on hand, whether it should be gold or silver, would be of the same use to them and to the country. Little or nothing was to be gained by the substitution of gold for silver. The mass would not be augmented, though its complexion might be changed. It was, therefore, a delusion to suppose, as had been proclaimed in the public papers, that this bill would give a specie currency to the country; neither would it give increased stability to bank paper. The extent of its effect would be, if gold should be rightly valued, to give the country some more gold than it previously had, and to about the same extent to diminish the silver; and it would also give to the holder of gold its real value immediately, in every transaction, without compelling him to seek it through a transaction with a broker. If overvalued, its effect would be to enable a debtor to pay his present debts with less than he owed, and to that extent, consequently, to defraud his creditor; and it would,

if considerable, place silver exactly in the condition in which gold now was, and make it an article of trade instead of currency. In the end, we might have to change the relative value of the two metals to keep silver here, as we now proposed to do to keep the gold. It had not, indeed, occurred to him that it was as important as some had thought to raise gold even to what he admitted to be its true proportional value. The real value had always been obtained, and would continued to be obtained, by the American holder, in the shape of a premium in the market, and this without any law for the purpose, except the law of commercial exchanges. Indeed, it was from this very premium that its true value, when compared with silver, was obtained. It would facilitate the gain of this premium by the holder of gold, to raise the legal value of gold to the same extent or thereabouts, and to this extent he was willing to go, but not beyond it.

Mr. CAMBRELENG said: There has been, Mr. Speaker, too much refinement and speculation on this question of the relative value of gold and silver and of currency. I am persuaded that the currency of every country would have been infinitely more sound, if less speculation and refinement had been introduced into legislation through the agency of mint directors and bankers. We are now endeavoring to adjust this question permanently, to aid in reforming the currency of the country, and what do we find? Why, sir, after all this legislative wisdom, after altering and realtering the ratio, after alternately adopting gold or silver as a currency, we find the most enlightened nations of Europe with debased currencies, for the purpose of keeping at home that which should be the medium of the world; and that, after all their inquiries and refinements, no two of them agree in establishing the relative value of gold and silver. Now, sir, with great deference to these authorities in establishing a permanent ratio, I prefer following a less fluctuating example. I prefer looking to the South—to our own neighbors, where the same unvarying ratio has continued for generations—to those mining countries where the ratio is established which will influence and control the relative value of gold and silver, notwithstanding all our laws and the temporary fluctuations at different times and in particular countries. We all, sir, have our particular speculations upon this subject. One gentleman proposes fifteen and five-eighths; the gentleman from Massachusetts (Mr. GORHAM) would go as high as fifteen and three-quarters; and, sir, I have my own speculations about it; the just average, according to the best calculation I can make, is fifteen, eighty-six and a half. The ratio proposed by my colleague (Mr. WHITE) is a fraction less than one per cent. higher than the result of my calculations. Independent of these calculations, I have always thought that, in establishing a ratio for our coins (situated as we are, intermediately between the mining countries and Europe) we should go

higher than most of the European regulations, and fall a little below the ancient Spanish ratio, which is still the regulator in most countries where there are no controlling laws. But, sir, I willingly surrender all my speculations on this subject; it is much more safe to establish a valuation of gold too high than too low; by adopting a higher ratio, we shall be more certain of accomplishing our object, which is to secure for our own country the permanent circulation of gold coins.

Some objections have been stated which I do not believe well founded. We are alarmed at a mere fractional variation. Of the importance of this objection we may judge by the fact stated in this debate. We are told that the mint valuation in France is fifteen and a half, while the current value is fifteen and seven-tenths; that in England, fifteen and a fifth, or less by another calculation; while the actual ratio is about fifteen and eighty-three hundredths. Sir, the current ratio between gold and silver bullion may, as it does, fluctuate with the increased or diminished demand for either for temporary use. But, with a just ratio, your currency will not be affected by such fluctuations. Great fears have been expressed, too, about driving silver out of the country. I cannot believe, sir, that the trifling advantage given to gold, an advantage not equal to one per cent., will produce any such effect. Neither of them would go out, unless to pay temporary balances, and under the proposed regulations for our coin. If the Mexican and Peruvian dollars were exported, the fractions of the dollars of every kind, and the gold, would remain; I cannot perceive how this result would injure the country. Another apprehension is indulged, as I think, equally unfounded. Calculating erroneously upon the existing relative value of gold and silver in this country as the true and proper value, and forgetting that it is altogether the artificial work of our own laws, we are gravely told of the danger of authorizing the circulation of both metals together, and particularly when you value gold two or three per cent. higher than it ought to be. The error is in assuming that fifteen and five-eighths is the just average ratio of gold and silver in the markets of the world, while that average is within a fraction of one per cent. of that proposed by my colleague, (Mr. WHITE.) Pass the bill, and gold would immediately assume its just relative value, and whatever small difference might exist, would be immediately controlled by law and custom. The opinion that the two metals cannot circulate together, and both be made a lawful tender, is, I know, general; but it is rather speculative than sound. It may be logically proved in theory; but, like many other theories, it is contradicted by experience. It is extraordinary that we should indulge these alarms in the face of the examples of France and of all the nations south of us, where both metals circulate and are received in the payment of debts, without

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inconvenience or any derangement of the currency.

Mr. GORHAM observed that the House was going to make gold cheaper than silver, and the necessary result must be, that the gold would be retained and the silver sent abroad. The cost of carrying the two kinds of specie being the same, a man going abroad, would, of course, take that kind in preference which would bring him the most where he was going; and if there was even a small difference, it would be sufficient to determine his choice. He had offered a proposition which he believed would meet and obviate the difficulty, and keep both metals among us. Unless some such expedient should be adopted, he was very certain that the silver would shortly disappear, and nothing but gold would get into circulation; and then just the same difficulty would occur with gold as did now respecting silver.

Mr. McKIM opposed the amendment suggested by Mr. GORHAM, which, he said, would, in practice, derange all the commercial affairs of the community. It required that all payments must be made one-half in gold. What if the gold was not in the country? and such was notoriously the fact. The low standard which had long prevailed in this country for that metal had driven it all away. The amount of gold coin in the United States had been regularly diminishing for years past. Gold alone was a legal tender in Great Britain, and this caused all the gold to centre there. Such an arrangement as was suggested by the gentleman last up would, if insisted upon, give an entirely new train to our commercial business. Every man would be set to hunting about to find where any gold was to be found, and the use of notes would, in a great degree, be discontinued. He thought the ratio of 16 to 1 certainly too high; he believed 15.825 would be a better standard; but if it was found that they had gone a little over the mark, it was a matter that might be easily regulated. The effect, in the meanwhile, would be to extend some encouragement to our gold mines at the South. The exportation of gold at present, was a regular trade, and the effect was to injure men of small capital. Another result of the bill would be to drive out the circulation of bank notes, to a certain degree, which, perhaps, would not be a bad thing. But he hoped the half-and-half plan of the gentleman from Massachusetts would not be adopted.

Mr. GORHAM withdrew his amendment.

The question being loudly demanded, it was put upon Mr. SELDEN's amendment to the amendment proposed by Mr. WHITE, (fixing the ratio of gold to silver at 15.825 to 1,) and decided by—yeas 52, nays 127.

Mr. GORHAM, observing that he felt much anxiety as to the practical effect of the bill in driving out the silver from our country, proposed an amendment altering the relative proportions of fine standard gold in the eagle, as follows: instead of 232 grains of pure gold to 258

grains of standard gold, he proposed 234 grains of the one to 260 grains of the other; in the half eagle, to change 116 to 117 grains of fine gold, and 129 to 130 of standard gold; and in the quarter eagle, 58 to 58½, and 64½ to 65.

Mr. WILDE said that this was the very highest ratio to which he could bring his mind. If it should be set higher, the inevitable effect would be to banish silver, and substitute gold in its place.

Mr. GORHAM's amendment was rejected—yeas 69, nays 112.

The question recurring on the amendment offered by Mr. WHITE,

Mr. BINNEY offered an amendment, providing that a certain number of the pieces coined in each year should be reserved and assayed, to ascertain whether they were of the proper fineness. This, he said, was recommended by the director of the mint; and he offered it in the form of a new section to the bill.

Mr. WHITE accepted this as a modification of his amendment; and the amendment thus modified was agreed to.

The bill was ordered to its third reading, and read a third time; and the question being, "Shall this bill pass?"

Mr. ADAMS said he should vote in the affirmative, though he did it very reluctantly, and in the hope that the ratio would be amended elsewhere. He considered it as decidedly too high; but as the bill was a very important one, he should not oppose its passage.

Mr. ARCHER hoped that the House would be influenced by this suggestion of his friend from Massachusetts to vote for the bill.

Mr. GORHAM said that if the House should vote, by any very large majority, for the bill, he was assured the Senate would not alter it. He hoped all who were opposed to the bill would vote against it, without any view to amendments hereafter.

Mr. WILDE admitted that, by the existing law, gold was undervalued; but by this bill it would be so greatly overvalued that of the two he should prefer the old law.

The bill was passed—yeas 145, nays 86.

Another coin bill, regulating the value of certain foreign gold coins within the United States, was then taken up, and having, on motion of Mr. WHITE, been so amended as to conform it to the ratio established in the preceding bill, it was in like manner read a third time, passed, and sent to the Senate for concurrence.

TUESDAY, June 24.

Local Bank Deposit Regulation Bill.

The House resumed the consideration of the "bill regulating the deposits in the local banks."

Mr. COULTER said: Mr. Speaker, although I was in favor of continuing the United States Bank as the depository of the public treasure, until by its recent course it placed itself in an attitude of direct hostility to the legislative

authority of the country in relation to that treasure, I never would have adopted this mode of effecting that object, as either adequate to remedy the evils complained of, or calculated to allay the apprehensions of the country.

The bank, then, in my judgment, having declined legislative scrutiny, and withdrawn the finances from the inspection of Congress, first, by the refusal of the president and cashier, in whose legal custody the books were of right, to produce these books to the committee for examination, when demanded in the business-room of the bank: secondly, in the president and directors refusing, in a body, to produce certain books, because they were not in their custody, individually and severally refusing to be sworn: thirdly, in demanding specifications from the committee when the only specification necessary, or which they could give, was the resolution of the House—I cannot, consistently with my judgment, make it the custodian of the public treasure. No man regretted its course more than I did, because I considered it a valuable public institution. But it has no dominion over me, politically or otherwise; and whilst I oppose, on the one hand, what I believe to be executive invasions of legislative rights, I will not, on the other, surrender them to a moneyed corporation.

Having now, Mr. Speaker, stated why I did not vote for the resolution of the Senate, I shall proceed to state the reasons of my opposition to the bill making the State banks the depositories of the public money. The 16th section of the United States Bank charter, so fatally vague in its provisions, did not give to the Secretary of the Treasury absolute dominion over the public money. He might direct that it should not be put in the bank; this was the extent of his power. The moment he did so, the law of '89, still in full force, attached to it. The whole Treasury establishment is the creation of that law, and by its provisions the Treasurer is the keeper of the public moneys. He gives bond, with sureties, for their safe-keeping. The collectors of the customs and the receivers of money for the public lands, are directed to pay him, and to receive their acquittances from him. The money is directed to be paid out by him on warrants drawn upon him, as provided by law, and he is bound "at all times to submit to the Secretary of the Treasury, and the Comptroller, or either of them, the inspection of the money in his hands." This law, in all its parts, has been continuing and un repealed; and when the Secretary, under the 16th section of the charter, directed otherwise, that is, that the money should not be put into the bank, it of necessity went into the hands of the Treasurer, he being the only other custodian appointed by law. It is true that he might deposit it in any place for safety; but still he is responsible, for one of the conditions of his bond is "for the fidelity of the persons to be by him employed." Gen. Hamilton, I

admit, upon a question put to him by a committee of Congress, gave as his opinion that, when the Treasurer deposited money in the State banks, they were first accountable to the Treasurer, and ultimately accountable to the United States. But highly as I respect his authority, I doubt whether the United States could maintain any suit upon a contract by its agent or officer, which was not authorized by law. The State banks, under such circumstances, are, in my opinion, the depositories of the Treasurer, accountable to him, and he and his sureties accountable to the United States. This gives the Government not only the security of the banks, but the assurance of the increased diligence and watchfulness of the officers of the Government, arising from their ultimate accountability. I prefer this state of things to the provision of the bill reported by the Committee of Ways and Means. The executive authority voluntarily assumed this responsibility. I prefer holding them to it until the great question between a fiscal agent of this Government, and the employment of State banks, shall be decided by the people, who must at last decide all such questions.

Mr. MOYNE desired to call the attention of members to the position the House occupied in relation to the subject-matter then under discussion. We have, said Mr. MOYNE, passed a resolution declaring that the charter of the Bank of the United States ought not to be renewed; we have passed a resolution declaring that the deposit of the public moneys ought not to be made in the United States Bank; and we have also passed a resolution declaring that provision ought to be made by law to continue the deposit of the public moneys in the State banks. It is in affirmance of, and with a view to carry into effect, the principle advanced in the last resolution, that the bill now under consideration was introduced by the Committee of Ways and Means. Its adoption is opposed by the gentleman from Georgia, (Mr. FOSTER,) and other gentlemen who have this day addressed the House, on the ground that the public moneys were illegally removed from their deposit in the United States Bank.

I shall briefly state the main argument advanced in support of this position, and then endeavor, with equal brevity, to give it an answer. The argument is, that the act of removal originated with the President, whilst the discretionary power of removal was confined to the Secretary of the Treasury, not as a subordinate, but as an independent officer of the Government; that, although in point of form, the Secretary did the act, it was, in spirit and in truth, the act of the President, who had no right to advise, direct, or control that officer; and the act, not being his, according to the true intent and meaning of the law, is, for that reason alone, reversible. Sir, if these premises were true, I should concur in the conclusion, for I am as far as any person from giving my approval to any measure of Government which

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rests its claim for that approval on its former accuracy alone. I will, sir, permit an officer of Government in a court of justice, or in enforcing obedience to his official commands, to show, in his justification, that all the formalities of law have been observed by him. But here, sir, at the bar of this House, or at the bar of public opinion, I will allow no such justification. The act must be right, not only in form, but in substance also. Not only the body must be perfect, but the animating principle also.

It has been found necessary, in the support of this argument, to assert that the Treasury Department is a legislative department, and that the Secretary of the Treasury is the fiscal agent of the Legislature. Let us, for one moment, examine this matter. An agent is a person appointed to execute the will and purposes of his principal. A legislative agent is a person appointed to execute the will and purposes of the Legislature. How does the Legislature give expression to its will and purposes? By the enactment of laws, and by the enactment of laws only. A legislative agent, therefore, is a person appointed to execute the laws of the Legislature. And here, sir, we have arrived at the precise definition of an executive officer, such as the Constitution of the United States has declared the President to be. To give the Secretary of the Treasury, as a legislative agent, the power to execute laws independently of the Executive, would not only be a robbery of the powers of the President, but also a usurpation on the part of Congress, and a most flagrant violation of the constitution, which has placed the law-making and the law-executing powers in different hands. The executive authority of this Government is vested exclusively in the President by the constitution, and as well might the President create an agency to make laws as Congress an agency to execute laws, insubordinate to the constitutional Executive. But, sir, it is said, admitting the Secretary of the Treasury to be an executive officer, that, by the act chartering the bank, the power given to him was distinct from that of his office. Independently of the constitutional objections that might be successfully urged against this proposition, I answer, a grant to the Secretary of the Treasury is a grant to the office, and not to the individual. The act does not grant the power to the person who, for the time being, shall be Secretary of the Treasury, but to the Secretary of the Treasury. Instead of its being a new appointment, in reference to an office, it is the enlargement of the duties of a pre-existing office.

I have authority for saying that the Secretary of the Treasury is entirely independent of the control of Congress in this matter—authority which no friend of the bank will feel himself at liberty to question. I alluded, sir, to what was said by the honorable member from Pennsylvania, (Mr. BINGHAM,) at the commencement of this Congress, the first time the House had the pleasure of listening to him. The question then

discussed was the proper reference of the letter of the Secretary of the Treasury, assigning his reasons for the removal of the deposits. That honorable member then stated that the Secretary of the Treasury sustained the relation of umpire between the bank and the Congress. Mark, Mr. Speaker, the relation of umpire. That gentleman is a distinguished lawyer, and he well knows the character of an umpire. It is, sir, that of perfect independence of the parties between whom he is to decide. No stronger figure could be used to show that the Secretary is not the agent of the Congress, and the bank, or of either of them. The honorable member asserted that the Secretary was the umpire, and his decision the award, and that through that award Congress derived its whole power of action over the subject, as an appellate tribunal. That the power in Congress, now to act in this matter, was not an original, but a derivative power, derived from the action of the Secretary, and, consequently, that we were confined in our action to the review of the reasons assigned by the Secretary of the Treasury.

Sir, there is nothing in all the noise we have heard about despotism and usurpation, but the clamor of politicians who are hungering and thirsting after place. There is nothing in any of the measures of the administration, in respect to this whole matter, that cannot find a precedent in all the administrations since the establishment of the Government under the existing constitution. Sir, the powers of this Government in relation to the Congress and Executive are well defined. Congress has absolute as well as plenary power over the revenues and moneys belonging to the Government. It can direct the place where they shall be kept, by whom kept, when removed, and for what purpose removed; but it is, nevertheless, the duty of the President to see that all laws made by Congress respecting them are faithfully executed, and of this power he cannot be divested—he cannot even divest himself of it.

I rejoice, sir, that all the arguments that have been introduced against the removal and in favor of the restoration of the deposits, in the connection of these measures with the prevailing distress, have had reference to the question of the renewal of the charter solely, and thus presenting the true question of bank or no bank. I am, nevertheless, constrained to say, from all the lights shed upon this subject, that those arguments are more pertinent to the true issue than weighty to establish the issue on the part of those advancing them.

It is a fair argument that no real cause existed, independent of the bank, for this failure of credit, when it is asserted that this failure has been caused by the prospective destruction of the bank, to which the removal of the deposits is supposed to be the prelude. The argument is, that, although the removal of the deposits did not lessen the amount of the capital, which is the basis of the issues forming the currency of the country, and therefore was not, in itself, the

necessary cause of the curtailment of those issues—yet, in the midst of the most extended commercial prosperity, there is a general disruption of currency and of credit, arising from an event which strongly proves that the charter of the bank will not be renewed. I deny, sir, that it is possible, in the midst of such prosperity, in the absence of real causes, to create a panic, that is to be at once the cause and the effect of its own existence. Our people are too wise to believe that their fate is indissolubly interwoven with that of the bank, and too prudent to borrow trouble in advance. I repeat, sir, that when the friends of the bank assign as cause for the prevailing distress that which is wholly insufficient, it is strong presumptive proof that the fault is with the bank. But we have also other proof; the bank has lessened its discounts—its millions here, and its million at this branch and at that, and where it was most necessary to have its power felt. The screws of that institution are not only powerful, but the chief engineer who turns those screws understands thoroughly the time and place for their most effective application. To this real existing cause, and that of cash duties paid under the new revenue laws, add the unfounded alarm that has been created, and we have the true causes of the hardness of the times. This unfounded alarm was also chiefly the work of the bank. In proof of this assertion, I have only to point to the individuals who are most industriously engaged in sounding the trumpet of alarm in the Atlantic cities. Who are they, sir? The detected purchased instruments of 1892. The bribed agents of the bank. I have no disposition, in an argument, to call hard names; neither do I feel a disposition to call things by any other than their right names; and I do, therefore, repeat, they are the bribed agents of the bank who have raised the cry of distress. Look to New York, and who are they that derided the State banks, and labored assiduously and insidiously to destroy their credit, the local, the general credit? They are those, sir, who have been proved to have "the facility" of conversion from one faith to another in the twinkling of an eye, under the influence of the "facilities" furnished from the breeches pocket of Nicholas Biddle.

I shall pursue this subject no further. The day of passion will soon have passed away, and the madness of party will soon have subsided. The veil of deception, which aspiring men have thrown around this matter, will then have been removed. Sir, how can they then hold up their faces in the presence of an insulted community? Will it be any apology that these men were in the pursuit of objects of personal ambition? Will their miserable scramblings for office constitute an atonement for the distress they brought upon their fellow-citizens? No, sir, it will be the just cause of their condemnation. The country is again prospering, but this prosperity is to them as the light, they cannot bear it, for they prefer darkness rather than light.

Mr. STEWART said: What were the objects to be accomplished by this premature removal of the deposits from where the law had placed them, and where Congress, at the close of its last session, by a vote of more than two to one, had declared they were safe and should remain? The objects and ends of this measure were these:

1. It would force from General Jackson many men who were coming into favor, and who were regarded with jealousy; it would restore party lines and party feelings, so indispensable to the success of a certain aspirant, and give him again the exclusive control of the President and his followers.

2. It would also give him the control of the money as well as the patronage of the Government, by which to purchase the mercenary, seduce the ambitious, and corrupt the venal and profligate portion of the community.

3. It would retain about fifteen millions of dollars now collected in New York, in that city, to sustain the safety-fund banks, instead of sending it to the United States Bank at Philadelphia.

4. This blow at the bank might, it was supposed, recover some of the popularity in the South which had been lost by the proclamation.

5. It would divert the attention of the people from the true and great points, the merits, qualifications, and public services of men, and fix it on a false issue between a popular President and an unpopular bank.

6. It would destroy one bank, supposed to be unfavorable, and establish some fifty or a hundred others as depositories of the public funds, with a perfect command and control of their political action, as was exerted over the safety-fund banks of New York.

Examine these motives and objects, not one of them could influence the course of General Jackson, if left free and uncontrolled by that magical spell which seemed to impel him, against the advice of all his cabinet, to the adoption of measures destructive alike to his friends, his fame, and his happiness. Who has this measure benefited? It has benefited the bank, increased its friends, and may revive its hopes of a re-charter before extinguished. It has united the opposition, impossible without it, strengthened the opponents of the President, and made enemies of thousands who would have otherwise remained his friends; and who has it injured?

It has sacrificed the poor to the rich; the debtor to the creditor; the merchant to the bank; the borrower to the lender. The miser and the stockjobber, who now lend at fourfold interest, and speculate and feast on the miseries and misfortunes of mankind, are alone benefited by this unfortunate experiment. It has, all admit, prostrated many of the President's friends here and elsewhere; especially those elected by small majorities. The political changes it has produced are all one way. It has drawn down the curses of thousands, who

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Local Bank Deposit Regulation Bill.

[H. OF R.]

have been ruined by it, on the President; and their curses, instead of their blessings, will follow him into retirement, and mar his peace and happiness forever. And why and wherefore all this mischief? Why remove the deposits from where they were safe, and place them, without the authority of law or the concurrence of Congress, where they are less secure, and less accessible for the public service? Was it to promote any interested view of the President? No. But to promote the ambitious view of one who aspires to the succession, and who will reach it, if he must, over the ruins of his country.

Mr. MILLER said: The public deposits have been removed from the Bank of the United States, in pursuance of the reserved authority of the Secretary of the Treasury, in the 16th section of the bank charter, in consequence of the alleged misconduct of the bank; and he had no hesitation in believing that there was much in the conduct of the bank, if not to render it absolutely necessary, at least to justify the course that had been taken. In this opinion a majority of this House had concurred, by declaring that the public moneys ought not to be restored to it.

The recent conduct of the bank, in refusing to permit an examination of its affairs except in its own way, had strengthened the correctness of this decision. There are many men in this House who, in the early part of this session, were in favor of a restoration, that have since become dissatisfied with the course of the bank, and are now in opposition to that measure, amongst whom he was happy to find his colleague, (Mr. COULTER.) What, then, are we to do with the public deposits? is the question now presented. They are not to be returned to the Bank of the United States. The idea of locking them up in an iron chest, where the community can derive no benefit from them, in the shape of discounts, is hardly seriously entertained by any one. There is no place, then, for them at present, where they can be deposited with any advantage, but in the State banks; and the only important question left for us to determine is, whether we will leave them at the entire and uncontrolled discretion of the Secretary of the Treasury, or whether we will regulate, limit, and control his discretion in regard to them, by law?

Surely, said Mr. M., gentleman who have been so loud in deprecating executive influence and patronage, cannot hesitate which alternative to choose. He had not examined the details of the bill very minutely, but from the examination he had given, he did not perceive any insuperable objection to it. He would therefore vote for it; but he was very far from considering its adoption as having any direct bearing on the question of whether there should be a national bank hereafter established or not. That was a question not now under consideration. The charter of the present

bank will not expire until March, 1836, and until then it seems to be generally admitted no new bank can be put in operation, even if there was a disposition to do so.

We must, therefore, have some place to keep the public moneys in the mean time, even if a new bank should be hereafter created; and, as he could perceive no better system, for the present, than that proposed in the bill now under consideration, he trusted the House would adopt it.

Mr. CHILTON said that he had risen to submit a motion, to which, under other circumstances, he should be opposed. We had now five remaining days of the session. Very much important and indispensable business remained unacted on; and unless this subject should be immediately disposed of, must necessarily remain unacted on, for the residue of the session, to the great detriment of the country. Sir, said Mr. O., I am opposed to the bill under consideration; firmly and immovably opposed to it. Yet that it will pass this House is perfectly evident to every member on his floor. Why, then, should we disregard our other high duties to the country, and consume the little remnant of our time in fruitless opposition to the will of the majority in this House, when we know that our position is powerless? The majority here can pass the bill; they will pass it, and theirs will be the responsibility of its passage. My reliance, sir, is elsewhere. I confidently trust and believe that there is elsewhere a reliance, and a safe one, too, in regard to this subject, on which the country may anchor its best interests. But, sir, as nothing can be gained by continuing this debate, and as much would be lost, in discharge of a solemn duty, which I owe to my constituents and my country, I demand the previous question.

The motion was seconded.

The previous question being put, Mr. H. EVERETT demanded the yeas and nays; which were ordered, and stood—yeas 118, nays 77.

On the question of engrossment they were also taken, and stood—yeas 111, nays 86.

The bill was put on its final passage, and decided as follows:

YEAS.—Messrs. John Adams, William Allen, Anthony, Beale, Bean, Beardale, Beaumont, Blair, Bockee, Bodle, Boon, Bouldin, Brown, Bunch, Burns, Bynum, Cambreleng, Carmichael, Carr, Casey, Chaney, Chinn, Samuel Clark, Clay, Coffee, Connor, Cramer, Day, Dickerson, Dickinson, Dunlap, Forster, Fowler, William K. Fuller, Galbraith, Gholson, Gilmer, Joseph Hall, Halsey, Hannegan, Joseph M. Harper, Harrison, Hathaway, Hawkins, Hawes, Henderson, Howell, Hubbard, Abel Huntington, Inge, Jarvis, R. M. Johnson, Noadiah Johnson, Cave Johnson, Seaborn Jones, Benjamin Jones, Kavanagh, Kinnard, Lane, Lansing, Laporte, Luke Lea, Thomas Lee, Leavitt, Lyon, Lytle, Abijah Mann, Joel K. Mann, John Y. Mason, Moses Mason, McIntire, McKay, McKim, McKinley, McLene, McVean, Miller, Robert Mitchell, Muhlenberg, Murphy, Osgood, Page, Parks, Parker, Patton, Patterson, D. J. Pearce, Franklin Pierce, Pierson, Plummer, Polk, Schenck,

Schley, Shepperd, Shinn, Smith, Speight, Standefer, Stoddert, Sutherland, William Taylor, Francis Thomas, Thomson, Turrill, Vanderpoel, Van Houten, Wagener, Ward, Wardwell, Webster, Whallon, C. P. White—112.

NAVS.—Messrs. John Quincy Adams, Heman Allen, John J. Allen, Archer, Ashley, Barber, Barnitz, Barringer, Baylies, Beaty, Binney, Bull, Burd, Coge, Campbell, Chambers, Chilton, William Clark, Clayton, Corwin, Coulter, Darlington, Davenport, Deberry, Denny, Dickson, Duncan, Ellsworth, Evans, E. Everett, H. Everett, Ewing, Felder, Fillmore, Foster, Philo C. Fuller, Fulton, Gamble, Garland, Gorham, Graham, Grennell, Griffin, Hiland Hall, Hardin, James Harper, Hazeltine, Heath, Hiester, Jabez W. Huntington, Jackson, William Cost Johnson, Lay, Lewis, Lincoln, Love, Martindale, Marshall, McComas, McKennan, Mercer, Milligan, Moore, Pinckney, Potts, Ramsay, Reed, Rencher, Selden, W. B. Shepard, Wm. Slade, Charles Slade, Sloane, Spangler, Steele, Stewart, Philemon Thomas, Tompkins, Turner, Tweedy, Vinton, Watmough, E. D. White, F. Whittlesey, Elisha Whittlesey, Wilde, Williams, Wilson, Wise, Young—90.

So the bill was passed and sent to the Senate.

General Lafayette.

Mr. ADAMS obtained leave to make a report, from the select joint committee, on the subject of the death of Lafayette, and reported the following resolutions :

Resolved, &c., That the two Houses have received, with the profoundest sensibility, intelligence of the death of General Lafayette, the friend of the United States, the friend of Washington, and the friend of liberty.

Sec. 2. *And be it further resolved,* That the sacrifices and efforts of this illustrious person, in the cause of our country, during her struggle for independence, and the affectionate interest which he has at all times manifested for the success of her political institutions, claim from the Government and people of the United States an expression of condolence for his loss, veneration for his virtues, and gratitude for his services.

Sec. 3. *And be it further resolved,* That the President of the United States be requested to address, together with a copy of the above resolutions, a letter to George Washington Lafayette, and the other members of his family, assuring them of the condolence of this whole nation in their irreparable bereavement.

Sec. 4. *And be it further resolved,* That the members of the two Houses of Congress will wear a badge of mourning for thirty days, and that it be recommended to the people of the United States to wear a similar badge for the same period.

Sec. 5. *And be it further resolved,* That the halls of the Houses be dressed in mourning for the residue of the session.

Sec. 6. *And be it further resolved,* That JOHN QUINCY ADAMS be requested to deliver an oration on the life and character of General Lafayette, before the two Houses of Congress, at the next session.

The resolutions were read twice, and ordered to be engrossed for a third reading, by a unanimous vote.

FRIDAY, JUNE 27.

Status of Mr. Jefferson.

Mr. E. EVERETT, from the Committee on the Library, reported a resolution directing that the statue of Mr. Jefferson, presented to Congress by Lieutenant Levy, of the navy, be placed in the square at the eastern front of the Capitol.

Mr. ARCHER conceived that if Congress desired to have a statue of this distinguished man, it would be more consistent with propriety to procure one for themselves, than to be indebted for it to any person whatever. He had another objection, which was, that as Congress had resolved to erect a statue in honor of the great and good father of his country, the immortal Washington, and which was in progress of execution, none other of any other man should be set up until that duty was performed which they had resolved should be done.

He had learned that this statue of Jefferson was not of that finished order which, if a statue was to be put up at all in the grounds of the Capitol, it ought to be.

Mr. LANE trusted that the House would not reject the resolution merely because the statue had been presented by a lieutenant instead of a commander.

Mr. MERRICK concurred in the opinion of his colleague, that it was not a good likeness, and he was opposed to the resolution.

The resolution was finally ordered to be engrossed, and was passed—ayes 69, noes 55.

Portrait of Washington.

Mr. JARVIS submitted the following resolution, which was unanimously adopted :

Resolved, That the Clerk of this House be directed to pay to John Vandertyn, out of the contingent fund of the House, fifteen hundred dollars, as additional compensation for the full length portrait of Washington, executed by him, to be placed in the Hall of Representatives, in pursuance of a resolution of this House of February 17, 1832.

EVENING SESSION.

The sitting continued until a very late hour.

Thanks to the Speaker.

In the course of the evening a resolution was introduced by Mr. SPEIGHT, of North Carolina, for presenting the thanks of the House to the honorable ANDREW STEVENSON, late Speaker of the House of Representatives, for the faithful, industrious, dignified, and impartial manner in which he discharged the duties of the Chair, and the resolution was agreed to, by yeas and nays, 97 votes to 49.

MONDAY, JUNE 30.

The Polish Exiles.

The bill from the Senate granting a township of land to 235 emigrant Poles, having

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Adjournment.

[H. OF R.]

been amended by the House, was returned by the Senate with their non-concurrence in the amendment.

[The amendment provides that the land titles shall be granted after ten years' settlement thereon, upon payment of the minimum price.]

Mr. CLAY, of Alabama, said he must move that the House do adhere to its amendment, and went into an explanation to show that the bill, as it came from the Senate, was a departure from the constitution, being a donation, for which there was not any precedent that he was aware of to authorize their making, of the public domains. One donation of the public lands had been given by Congress to certain emigrants from France, but that grant had some public ground to recommend it; those persons being required to plant the vine and the olive.

The amendment proposed by the House gave to these individuals advantages which were not given to the people of the United States, namely: if they went on the lands, after ten years they would only be called on to pay therefor the lowest price, viz.: \$1 25 per acre; and this was sufficient, in his estimation, for Congress to grant.

Mr. CAMBRELENG held that Congress had the power to make grants of the public domain, with a view to their actual settlement; and said he did not believe the people of the United States generally would refuse their assent to the grant for men circumstanced as these Poles were known to be: men who had been bravely fighting the battles of liberty in the old world, and in resistance to the march of despotism. He considered this an offering in the cause of liberty, to which it was the duty of the House to respond.

Mr. J. Q. ADAMS expressed his hope that this nation would not act on a niggardly principle towards these brave but unfortunate men. He did think that we were imposing too many conditions with the grant.

Mr. BURGESS would, in reply to the constitutional doubts of the member from Alabama, inquire from every son of freedom throughout the land, if the public domain could be better disposed of than it was by this grant, given as encouragement to those who had so bravely battled in its sacred cause? The eyes of the world, he said, were upon them; and no man in the United States, no free man, would or ought to say it was unconstitutional to pass this bill.

Mr. McKIM moved the previous question; it was seconded, and the main question having been ordered and taken,

The House insisted upon its amendment (requiring the minimum price for the land) to the bill—yeas 82, nays 68.

Post Office.

The following gentlemen were announced to compose the committee to sit in the recess to investigate the affairs of the Post Office:

Messrs. CONNOR, POLK, WHITTLESLEY, H. EVERETT, BEARDSLEY, WATMOUGH, and HAWES.

Mr. POLK said he perceived, from the reading of the Journal this morning, that he was placed as a member of the select committee appointed to sit during the recess of Congress to examine into the condition of the General Post Office. Mr. P. said he had never shrunk from the performance of any duty assigned to him, since he had been a member of the House. It was well known to the House that he had, during the present session, been a member of a most laborious committee, the duties of which he had attempted to perform. He had been at all times willing to give his whole time and attention, whilst Congress was in session, to the business of the House. The committee, however, were to sit at Washington during the recess. The state of his private affairs, he said, would render it very inconvenient for him to be at Washington earlier than the meeting of the next session of Congress. He must therefore respectfully ask the favor of the House to excuse him from serving as a member of this committee.

Mr. POLK was excused, and Mr. STODDERT appointed in his place upon the committee.

Duties on Church Bells remitted.

The bills remitting the duties on bells presented to the Roman Catholic church at St. Louis, Missouri, having been called up by Mr. ASHLEY, occasioned some debate on the constitutional question of appropriating for the establishment of religion; but the bill was at length passed—66 to 58.

Missouri Land Claims.

Mr. ASHLEY endeavored to have a reconsideration of the vote laying on the table the bill to confirm certain land claims in Missouri, but failing in that effort, he moved a resolution requiring the report of the commissioners who passed upon the claims to be submitted to the Secretary of the Treasury; which was agreed to.

Adjournment.

The usual message was sent to the Senate and President, informing them that the House was ready to adjourn; and both Houses adjourned at about 7 o'clock.

TWENTY-THIRD CONGRESS.—SECOND SESSION.

PROCEEDINGS IN THE SENATE.

MONDAY, December 1, 1834.

At 12 o'clock the Senate was called to order by the VICE PRESIDENT of the United States, HON. MARTIN VAN BUREN.

Mr. WHITE submitted the following motion :

Ordered, That the Secretary acquaint the House of Representatives that a quorum of the Senate is assembled and ready to proceed to business; which was agreed to.

Mr. WHITE submitted the following resolution :

Resolved, That a committee be appointed, on the part of the Senate, to join such committee as may be appointed by the House of Representatives, to wait on the President of the United States, and inform him that quorums of the two Houses have assembled, and that Congress is ready to receive any communication he may be pleased to make.

The resolution was agreed to.

Mr. CLAY moved that the Senate waive balloting for the committee, and that the presiding officer appoint the same; which was agreed to; and Messrs. WHITE and SWIFT were appointed.

A message was received from the House of Representatives, by Mr. FRANKLIN, their Clerk, stating that a quorum of members of that House was present, and that a committee had been appointed to join the Senate committee, for the purpose of informing the President of the United States that the two Houses were organized, and ready to receive his communications.

TUESDAY, December 2.

Mr. MORRIS, of Ohio, attended to-day.

Mr. WHITE, from the joint committee appointed to wait on the President of the United States, and inform him that quorums of the two Houses of Congress had assembled, and were ready to receive any communication he might be pleased to make, reported that they had performed the duty assigned them, and that the President would, at 12 o'clock this day, make an communication to Congress in writing.

The annual Message of the President of the United States was then handed to the Chair, by Mr. DONNELSON, his private secretary, which was as follows :

*Fellow-Citizens of the Senate
and House of Representatives :*

In performing my duty at the opening of your present session, it gives me pleasure to congratulate you again upon the prosperous condition of our beloved country. Divine Providence has favored us with general health, with rich rewards in the fields of agriculture and in every branch of labor, and with peace to cultivate and extend the various resources which employ the virtue and enterprise of our citizens. Let us trust that, in surveying a scene so flattering to our free institutions, our joint deliberations to preserve them may be crowned with success.

Our foreign relations continue, with but few exceptions, to maintain the favorable aspect which they bore in my last annual Message, and promise to extend those advantages which the principles that regulate our intercourse with other nations are so well calculated to secure.

The question of the north-eastern boundary is still pending with Great Britain, and the proposition made in accordance with the resolution of the Senate for the establishment of a line according to the treaty of 1783, has not been accepted by that Government. Believing that every disposition is felt on both sides to adjust this perplexing question to the satisfaction of all the parties interested in it, the hope is yet indulged that it may be effected on the basis of that proposition.

With the Governments of Austria, Russia, Prussia, Holland, Sweden, and Denmark, the best understanding exists. Commerce, with all, is fostered and protected by reciprocal good will, under the sanction of liberal conventional or legal provisions.

In the midst of her internal difficulties, the Queen of Spain has ratified the convention for the payment of the claims of our citizens arising since 1819. It is in the course of execution on her part, and a copy of it is now laid before you for such legislation as may be found necessary to enable those interested to derive the benefits of it.

Yielding to the force of circumstances, and to the wise counsels of time and experience, that power has finally resolved no longer to occupy the unnatural position in which she stood to the new Governments established in this hemisphere. I have the great est-

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The President's Message.

[SENATE.]

isfaction of stating to you that, in preparing the way for the restoration of harmony between those who have sprung from the same ancestors, who are allied by common interests, profess the same religion, and speak the same language, the United States have been actively instrumental. Our efforts to effect this good work will be persevered in while they are deemed useful to the parties, and our entire disinterestedness continues to be felt and understood. The act of Congress to countervail the discriminating duties, levied to the prejudice of our navigation in Cuba and Porto Rico, has been transmitted to the minister of the United States at Madrid, to be communicated to the Government of the Queen. No intelligence of its receipt has yet reached the Department of State. If the present condition of the country permits the Government to make a careful and enlarged examination of the true interests of these important portions of its dominions, no doubt is entertained that their future intercourse with the United States will be placed upon a more just and liberal basis.

The Florida archives have not yet been selected and delivered. Recent orders have been sent to the agent of the United States at Havana, to return with all that he can obtain, so that they may be in Washington before the session of the Supreme Court, to be used in the legal questions there pending, to which the Government is a party.

Internal tranquillity is happily restored to Portugal. The distracted state of the country rendered unavoidable the postponement of a final payment of the just claims of our citizens. Our diplomatic relations will be soon resumed, and the long subsisting friendship with that power affords the strongest guaranty that the balance due will receive prompt attention.

The first instalment due under the convention of indemnity with the King of the Two Sicilies, has been duly received, and an offer has been made to extinguish the whole by a prompt payment—an offer I did not consider myself authorized to accept, as the indemnification provided is the exclusive property of individual citizens of the United States. The original adjustment of our claims, and the anxiety displayed to fulfil at once the stipulations made for the payment of them, are highly honorable to the Government of the Two Sicilies. When it is recollected that they were the result of the injustice of an intrusive power, temporarily dominant in its territory, a repugnance to acknowledge and to pay which would have been neither unnatural nor unexpected, the circumstances cannot fail to exalt its character for justice and good faith in the eyes of all nations.

The Treaty of Amity and Commerce between the United States and Belgium, brought to your notice in my last annual Message, as sanctioned by the Senate, but the ratifications of which had not been exchanged, owing to a delay in its reception at Brussels, and a subsequent absence of the Belgian Minister of Foreign Affairs, has been, after mature deliberation, finally disavowed by that Government as inconsistent with the powers and instructions given to their minister who negotiated it. This disavowal was entirely unexpected, as the liberal principles embodied in the convention, and which form the groundwork of the objections to it, were perfectly satisfactory to the Belgian representative, and were supposed to be not only within the powers granted, but expressly conformable to the instructions given to him. An offer, not yet accepted, has been made by Belgium to re-

new negotiations for a treaty less liberal in its provisions, on questions of general maritime law.

Our newly-established relations with the Sublime Porte promise to be useful to our commerce, and satisfactory, in every respect, to this Government. Our intercourse with the Barbary Powers continues without important change, except that the present political state of Algiers has induced me to terminate the residence there of a salaried consul, and to substitute an ordinary consulate, to remain so long as the place continues in the possession of France. Our first treaty with one of these powers—the Emperor of Morocco—was formed in 1786, and was limited to fifty years. That period has almost expired. I shall take measures to renew it with the greatest satisfaction, as its stipulations are just and liberal, and have been, with mutual fidelity and reciprocal advantage, scrupulously fulfilled.

Intestine dissensions have too frequently occurred to mar the prosperity, interrupt the commerce, and distract the Governments of most of the nations of this hemisphere, which have separated themselves from Spain. When a firm and permanent understanding with the parent country shall have produced a formal acknowledgment of their independence, and the idea of danger from that quarter can be no longer entertained, the friends of freedom expect that those countries, so favored by nature, will be distinguished for their love of justice, and their devotion to those peaceful arts, the assiduous cultivation of which confers honor upon nations, and gives value to human life. In the mean time, I confidently hope that the apprehensions entertained, that some of the people of these luxuriant regions may be tempted, in a moment of unworthy distrust of their own capacity for the enjoyment of liberty, to commit the too common error of purchasing present repose by bestowing on some favorite leaders the fatal gift of irresponsible power, will not be realized. With all these Governments, and with that of Brazil, no unexpected changes in our relations have occurred during the present year. Frequent causes of just complaint have arisen upon the part of the citizens of the United States; sometimes from the irregular action of the constituted subordinate authorities of the maritime regions, and sometimes from the leaders or partisans of those in arms against the established Governments. In all cases, representations have been, or will be made; and so soon as their political affairs are in a settled position, it is expected that our friendly remonstrances will be followed by adequate redress.

The Government of Mexico made known, in December last, the appointment of commissioners and a surveyor, on its part, to run, in conjunction with ours, the boundary line between its territories and the United States, and excused the delay for the reasons anticipated—the prevalence of civil war. The commissioners and surveyors not having met within the time stipulated by the treaty, a new arrangement became necessary, and our chargé d'affaires was instructed, in January last, to negotiate, at Mexico, an article additional to the pre-existing treaty. This instruction was acknowledged, and no difficulty was apprehended in the accomplishment of that object. By information just received, that additional article to the treaty will be obtained, and transmitted to this country, as soon as it can receive the ratification of the Mexican Congress.

The re-union of the three States of New Granada,

Venezuela, and Ecuador, forming the Republic of Colombia, seems every day to become more improbable. The commissioners of the two first are understood to be now negotiating a just division of the obligations contracted by them when united under one Government. The civil war in Ecuador, it is believed, has prevented even the appointment of a commissioner on its part.

I propose, at an early day, to submit, in the proper form, the appointment of a diplomatic agent to Venezuela. The importance of the commerce of that country to the United States, and the large claims of our citizens upon the Government, arising before and since the division of Colombia, rendering it, in my judgment, improper longer to delay this step.

Our representatives to Central America, Peru, and Brazil, are either at, or on their way to, their respective posts.

From the Argentine Republic, from which a minister was expected to this Government, nothing further has been heard. Occasion has been taken, on the departure of a new consul to Buenos Ayres, to remind that Government that its long-delayed minister, whose appointment had been made known to us, had not arrived.

It becomes my unpleasant duty to inform you that this pacific and highly gratifying picture of our foreign relations does not include those with France at this time. It is not possible that any Government and people could be more sincerely desirous of conciliating a just and friendly intercourse with another nation, than are those of the United States with their ancient ally and friend. This disposition is founded, as well on the most grateful and honorable recollections associated with our struggle for independence, as upon a well-grounded conviction that it is consonant with the true policy of both. The people of the United States could not, therefore, see, without the deepest regret, even a temporary interruption of the friendly relations between the two countries—a regret which would, I am sure, be greatly aggravated, if there should turn out to be any reasonable ground for attributing such a result to any act of omission or commission on our part. I derive, therefore, the highest satisfaction from being able to assure you that the whole course of this Government has been characterized by a spirit so conciliatory and forbearing, as to make it impossible that our justice and moderation should be questioned, whatever may be the consequences of a longer perseverance, on the part of the French Government, in her omission to satisfy the conceded claims of our citizens.

The history of the accumulated and unprovoked aggressions upon our commerce, committed by the authority of the existing Governments of France, between the years 1800 and 1817, has been rendered too painfully familiar to Americans to make its repetition either necessary or desirable. It will be sufficient here to remark that there has, for many years, been scarcely a single administration of the French Government by whom the justice and legality of the claims of our citizens to indemnity were not, to a very considerable extent, admitted, and yet near a quarter of a century has been wasted in ineffectual negotiations to secure it.

Deeply sensible of the injurious effects resulting from this state of things upon the interests and character of both nations, I regarded it as among my first duties to cause one more effort to be made to satisfy France that a just and liberal settlement of our claims was as well due to her own honor as to their incon-

testable validity. The negotiation for this purpose was commenced with the late Government of France, and was prosecuted with such success, as to leave no reasonable ground to doubt that a settlement of a character quite as liberal as that which was subsequently made, would have been effected, had not the revolution, by which the negotiation was cut off, taken place. The discussions were resumed with the present Government, and the result showed that we were not wrong in supposing that an event by which the two Governments were made to approach each other so much nearer in their political principles, and by which the motives for the most liberal and friendly intercourse were so greatly multiplied, could exercise no other than a salutary influence upon the negotiation. After the most deliberate and thorough examination of the whole subject, a treaty between the two Governments was concluded and signed at Paris on the 4th of July, 1831, by which it was stipulated that "the French Government, in order to liberate itself from all the reclamations preferred against it by citizens of the United States, for unlawful seizures, captures, sequestrations, confiscations, or destruction of their vessels, cargoes, or other property, engages to pay a sum of twenty-five millions of francs to the United States, who shall distribute it among those entitled, in the manner and according to the rules it shall determine;" and it was also stipulated on the part of the French Government, that this twenty-five millions of francs should "be paid at Paris in six annual instalments of four million one hundred and sixty-six thousand six hundred and sixty-six francs and sixty-six centimes each, into the hands of such person or persons as shall be authorized by the Government of the United States to receive it." The first instalment to be paid "at the expiration of one year next following the exchange of the ratifications of this convention, and the others at successive intervals of a year, one after another, till the whole shall be paid. To the amount of each of the said instalments shall be added interest at four per centum thereupon, as upon the other instalments then remaining unpaid, the said interest to be computed from the day of the exchange of the present convention."

It was also stipulated, on the part of the United States, for the purpose of being completely liberated from all the reclamations presented by France, on behalf of its citizens, that the sum of 1,500,000 francs should be paid to the Government of France, in six annual instalments, to be deducted out of the annual sums which France had agreed to pay, interest thereupon being in like manner computed from the day of the exchange of the ratifications. In addition to this stipulation, important advantages were secured to France by the following article, viz.: "The wines of France, from and after the exchange of the ratifications of the present convention, shall be admitted to consumption in the States of the Union, at duties which shall not exceed the following rates by the gallon, (such as it is used at present for wines in the United States,) to wit: six cents for red wines in casks; ten cents for white wines in casks; and twenty-two cents for wines of all sorts in bottles. The proportion existing between the duties on French wines thus reduced, and the general rates of the tariff which went into operation the 1st January, 1823, shall be maintained, in case the Government of the United States should think proper to diminish those general rates in a new tariff.

In consideration of this stipulation, which shall be

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binding on the United States for ten years, the French Government abandons the reclamations which it had formed in relation to the 8th article of the treaty of cession of Louisiana. It engages, moreover, to establish on the *long staple* cottons of the United States, which, after the exchange of the ratifications of the present convention, should be brought directly thence to France by the vessels of the United States, or by French vessels, the same duties as on *short staple* cottons."

This treaty was duly ratified in the manner prescribed by the constitutions of both countries, and the ratification was exchanged at the city of Washington, on the 2d of February, 1832. On account of its commercial stipulations, it was, within five days thereafter, laid before the Congress of the United States, which proceeded to enact such laws favorable to the commerce of France as were necessary to carry it into full execution; and France has, from that period to the present, been in the unrestricted enjoyment of the valuable privileges that were thus secured to her. The faith of the French nation having been thus solemnly pledged, through its constitutional organ, for the liquidation and ultimate payment of the long-deferred claims of our citizens, as also for the adjustment of other points of great and reciprocal benefits to both countries, and the United States having, with a fidelity and promptitude by which their conduct will, I trust, be always characterized, done every thing that was necessary to carry the treaty into full and fair effect on their part, counted, with the most perfect confidence, on equal fidelity and promptitude on the part of the French Government. In this reasonable expectation we have been, I regret to inform you, wholly disappointed. No legislative provision has been made by France for the execution of the treaty, either as it respects the indemnities to be paid, or the commercial benefits to be secured to the United States; and the relations between the United States and that power, in consequence thereof, are placed in a situation threatening to interrupt the good understanding which has so long and so happily existed between the two nations.

Not only has the French Government been thus wanting in the performance of the stipulations it has so solemnly entered into with the United States, but its omissions have been marked by circumstances which would seem to leave us without satisfactory evidences that such performance will certainly take place at a future period. Advice of the exchange of ratifications reached Paris prior to the 8th April, 1832. The French Chambers were then sitting, and continued in session until the 21st of that month; and although one instalment of the indemnity was payable on the 2d of February, 1833, one year after the exchange of ratifications, no application was made to the Chambers for the required appropriation, and, in consequence of no appropriation having then been made, the draft of the United States Government for that instalment was dishonored by the Minister of Finance, and the United States thereby involved in much controversy. The next session of the Chambers commenced on the 19th November, 1832, and continued until the 25th April, 1833. Notwithstanding the omission to pay the first instalment had been made the subject of earnest remonstrance on our part, the treaty with the United States, and a bill making the necessary appropriations to execute it, were not laid before the Chamber of Deputies until the 6th of April, nearly five months after its meeting, and only nineteen days before the close of the session. The

bill was read, and referred to a committee, but there was no further action upon it. The next session of the Chambers commenced on the 26th of April, 1833, and continued until the 26th of June following. A new bill was introduced on the 11th of June, but nothing important was done in relation to it during the session. In the month of April, 1834, nearly three years after the signature of the treaty, the final action of the French Chambers upon the bill to carry the treaty into effect was obtained, and resulted in a refusal of the necessary appropriations. The avowed grounds upon which the bill was rejected, are to be found in the published debates of that body, and no observations of mine can be necessary to satisfy Congress of their utter insufficiency. Although the gross amount of the claims of our citizens is probably greater than will be ultimately allowed by the commissioners, sufficient is, nevertheless, shown, to render it absolutely certain that the indemnity falls far short of the actual amount of our just claims, independently of damages, and interest for the detention. That the settlement involved a sacrifice, in this respect, was well known at the time—a sacrifice which was cheerfully acquiesced in by the different branches of the Federal Government, whose action upon the treaty was required, from a sincere desire to avoid further collision upon this old and disturbing subject, and in the confident expectation that the general relations between the two countries would be improved thereby.

The refusal to vote the appropriation, the news of which was received from our minister in Paris about the 15th day of May last, might have been considered the final determination of the French Government not to execute the stipulations of the treaty, and would have justified an immediate communication of the facts to Congress, with a recommendation of such ultimate measures as the interest and honor of the United States might seem to require. But with the news of the refusal of the Chambers to make the appropriation, were conveyed the regrets of the King, and a declaration that a national vessel should be forthwith sent out, with instructions to the French minister to give the most ample explanations of the past, and the strongest assurances for the future. After a long passage, the promised despatch vessel arrived. The pledges given by the French minister, upon receipt of his instructions, were, that as soon after the election of the new members as the charter would permit, the Legislative Chambers of France should be called together, and the proposition for an appropriation laid before them; that all the constitutional powers of the King and his Cabinet should be exerted to accomplish the object; and that the result should be made known early enough to be communicated to Congress at the commencement of the present session. Relying upon these pledges, and not doubting that the acknowledged justice of our claims, the promised exertions of the King and his Cabinet, and, above all, that sacred regard for the national faith and honor for which the French character has been so distinguished, would secure an early execution of the treaty in all its parts, I did not deem it necessary to call the attention of Congress to the subject at the last session.

I regret to say that the pledges made through the minister of France have not been redeemed. The new Chambers met on the 31st July last; and although the subject of fulfilling treaties was alluded to in the speech from the throne, no attempt was made by the King or his Cabinet to procure an appropriation to carry it into execution. The rea-

sons given for this omission, although they might be considered sufficient in an ordinary case, are not consistent with the expectations founded upon the assurances given here, for there is no constitutional obstacle to entering into legislative business at the first meeting of the Chambers. This point, however, might have been overlooked, had not the Chambers, instead of being called to meet at so early a day that the result of their deliberations might be communicated to me before the meeting of Congress, been prorogued to the 29th of the present month—a period so late that their decision can scarcely be made known to the present Congress prior to its dissolution. To avoid this delay, our minister in Paris, in virtue of the assurance given by the French minister in the United States, strongly urged the convocation of the Chambers at an earlier day, but without success. It is proper to remark, however, that this refusal has been accompanied with the most positive assurances, on the part of the Executive Government of France, of their intention to press the appropriation at the ensuing session of the Chambers.

The executive branch of this Government has, as matters stand, exhausted all the authority upon the subject with which it is invested, and which it had any reason to believe could be beneficially employed.

The idea of acquiescing in the refusal to execute the treaty will not, I am confident, be for a moment entertained by any branch of this Government; and further negotiation upon the subject is equally out of the question.

If it shall be the pleasure of Congress to await the further action of the French Chambers, no further consideration of the subject will, at this session, probably be required at your hands. But if, from the original delay in asking for an appropriation, from the refusal of the Chambers to grant it when asked, from the omission to bring the subject before the Chambers at their last session, from the fact that, including that session, there have been five different occasions when the appropriation might have been made, and from the delay in convoking the Chambers until some weeks after the meeting of Congress, when it was well known that a communication of the whole subject to Congress at the last session was prevented by assurances that it should be disposed of before its present meeting, you should feel yourselves constrained to doubt whether it be the intention of the French Government in all its branches to carry the treaty into effect, and think that such measures as the occasion may be deemed to call for should be now adopted, the important question arises, what those measures shall be.

Our institutions are essentially pacific. Peace and friendly intercourse with all nations are as much the desire of our Government as they are the interest of our people. But these objects are not to be permanently secured, by surrendering the rights of our citizens, or permitting solemn treaties for their indemnity in cases of flagrant wrong, to be abrogated or set aside.

It is undoubtedly in the power of Congress seriously to affect the agricultural and manufacturing interests of France by the passage of laws relating to her trade with the United States. Her products, manufactures, and tonnage, may be subjected to heavy duties in our ports, or all commercial intercourse with her may be suspended. But there are powerful, and, to my mind, conclusive objections to this mode of proceeding. We cannot embarrass or

cut off the trade of France, without, at the same time, in some degree, embarrassing or cutting off our own trade. The injury of such a warfare must fall, though unequally, upon our own citizens, and could not but impair the means of the Government, and weaken that united sentiment in support of the rights and honor of the nation which must now pervade every bosom. Nor is it impossible that such a course of legislation would introduce once more into our national councils those disturbing questions in relation to the tariff of duties which have been so recently put to rest. Besides, by every measure adopted by the Government of the United States with the view of injuring France, the clear perception of right which will induce our own people, and the rulers and people of all other nations, even of France herself, to pronounce our quarrel just, will be obscured, and the support rendered to us in a final resort to more decisive measures will be more limited and equivocal. There is but one point in the controversy, and upon that the whole civilized world must pronounce France to be in the wrong. We insist that she shall pay us a sum of money, which she has acknowledged to be due; and of the justice of this demand there can be but one opinion among mankind. True policy would seem to dictate that the question at issue should be kept thus disencumbered, and that not the slightest pretence should be given to France to persist in her refusal to make payment, by any act on our part affecting the interests of her people. The question should be left as it is now, in such an attitude that, when France fulfils her treaty stipulations, all controversy will be at an end.

It is my conviction that the United States ought to insist on a prompt execution of the treaty, and, in case it be refused, or longer delayed, take redress into their own hands. After the delay on the part of France of a quarter of a century in acknowledging these claims by treaty, it is not to be tolerated that another quarter of a century is to be wasted in negotiating about the payment. The laws of nations provide a remedy for such occasions. It is a well-settled principle of the international code, that where one nation owes another a liquidated debt, which it refuses or neglects to pay, the aggrieved party may seize on the property belonging to the other, its citizens or subjects, sufficient to pay the debt, without giving just cause of war. This remedy has been repeatedly resorted to, and recently by France herself, towards Portugal, under circumstances less questionable.

The time at which resort should be had to this, or any other mode of redress, is a point to be decided by Congress. If an appropriation shall not be made by the French Chambers at their next session, it may justly be concluded that the Government of France has finally determined to disregard its own solemn undertaking, and refuse to pay an acknowledged debt. In that event, every day's delay on our part will be a stain upon our national honor, as well as a denial of justice to our injured citizens. Prompt measures, when the refusal of France shall be complete, will not only be most honorable and just, but will have the best effect upon our national character.

Since France, in violation of the pledges given through her minister here, has delayed her final action so long that her decision will not probably be known in time to be communicated to this Congress, I recommend that a law be passed, authorizing reprisals upon French property, in case provision shall

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not be made for the payment of the debt at the approaching session of the French Chambers. Such a measure ought not to be considered by France as a menace. Her pride and power are too well known to expect any thing from her fears, and preclude the necessity of a declaration that nothing partaking of the character of intimidation is intended by us. She ought to look upon it as the evidence only of an inflexible determination on the part of the United States to insist on their rights. That Government, by doing only what it has itself acknowledged to be just, will be able to spare the United States the necessity of taking redress into their own hands, and save the property of French citizens from that seizure and sequestration which American citizens so long endured without retaliation or redress. If she should continue to refuse that act of acknowledged justice, and, in violation of the law of nations, make reprisals on our part the occasion of hostilities against the United States, she would but add violence to injustice, and could not fail to expose herself to the just censure of civilized nations, and to the retributive judgments of Heaven.

Collision with France is the more to be regretted, on account of the position she occupies in Europe in relation to liberal institutions. But, in maintaining our national rights and honor, all Governments are alike to us. If, by a collision with France, in a case where she is clearly in the wrong, the march of liberal principles shall be impeded, the responsibility for that result, as well as every other, will rest on her own head.

Having submitted these considerations, it belongs to Congress to decide whether, after what has taken place, it will still await the further action of the French Chambers, or now adopt such provisional measures as it may deem necessary and best adapted to protect the rights and maintain the honor of the country. Whatever that decision may be, it will be faithfully enforced by the Executive, as far as he is authorized so to do.

According to the estimates of the Treasury Department, the revenue accruing from all sources, during the present year, will amount to twenty million six hundred and twenty-four thousand seven hundred and seventeen dollars, which, with the balance remaining in the Treasury on the 1st of January last, of eleven million seven hundred and two thousand nine hundred and five dollars, produces an aggregate of thirty-two million three hundred and twenty-seven thousand six hundred and twenty-three dollars. The total expenditure during the year for all objects, including the public debt, is estimated at twenty-five million five hundred and ninety-one thousand three hundred and ninety dollars, which will leave a balance in the Treasury on the 1st of January, 1835, of six million seven hundred and thirty-six thousand two hundred and thirty-two dollars. In this balance, however, will be included about one million one hundred and fifty thousand dollars, of what was heretofore reported by the department as not effective.

Of former appropriations, it is estimated that there will remain unexpended at the close of the year, eight million two thousand nine hundred and twenty-five dollars; and that, of this sum, there will not be required more than five million one hundred and forty-one thousand nine hundred and sixty-four dollars, to accomplish the objects of all the current appropriations. Thus it appears that, after satisfying all those appropriations, and after discharging the last item of our public debt, which will be done on

the 1st of January next, there will remain unexpended in the Treasury an effective balance of about four hundred and forty thousand dollars. That such should be the aspect of our finances, is highly flattering to the industry and enterprise of our population, and auspicious of the wealth and prosperity which await the future cultivation of their growing resources. It is not deemed prudent, however, to recommend any change for the present in our impost rates, the effect of the gradual reduction now in progress in many of them not being sufficiently tested to guide us in determining the precise amount of revenue which they will produce.

Free from public debt, at peace with all the world, and with no complicated interests to consult in our intercourse with foreign powers, the present may be hailed as that epoch in our history the most favorable for the settlement of those principles in our domestic policy, which shall be best calculated to give stability to our republic, and secure the blessings of freedom to our citizens. Among these principles, from our past experience, it cannot be doubted that simplicity in the character of the Federal Government, and a rigid economy in its administration, should be regarded as fundamental and sacred. All must be sensible that the existence of the public debt, by rendering taxation necessary for its extinguishment, has increased the difficulties which are inseparable from any exercise of the taxing power; and that it was, in this respect, a remote agent in producing those disturbing questions which grew out of the discussions relating to the tariff. If such has been the tendency of a debt incurred in the acquisition and maintenance of our national rights and liberties, the obligation of which all portions of the Union cheerfully acknowledged, it must be obvious, that whatever is calculated to increase the burdens of Government without necessity, must be fatal to all our hopes of preserving its true character. While we are felicitating ourselves, therefore, upon the extinguishment of the national debt, and the prosperous state of our finances, let us not be tempted to depart from those sound maxims of public policy, which enjoin a just adaptation of the revenue to the expenditures that are consistent with a rigid economy, and an entire abstinence from all topics of legislation that are not clearly within the constitutional powers of the Government, and suggested by the wants of the country. Properly regarded, under such a policy, every diminution of the public burdens arising from taxation, gives to individual enterprise increased power, and furnishes to all the members of our happy confederacy new motives for patriotic affection and support. But, above all, its most important effect will be found in its influence upon the character of the Government, by confining its action to those objects which will be sure to secure to it the attachment and support of our fellow-citizens.

Circumstances make it my duty to call the attention of Congress to the Bank of the United States. Created for the convenience of the Government, that institution has become the scourge of the people. Its interference to postpone the payment of a portion of the national debt, that it might retain the public money appropriated for that purpose, to strengthen it in a political contest—the extraordinary extension and contraction of its accommodations to the community—its corrupt and partisan loans—its exclusion of the public directors from a knowledge of its most important proceedings—the unlimited authority conferred on the president to expend its funds in hir-

ing writers, and procuring the execution of printing, and the use made of that authority—the retention of the pension money and books after the selection of new agents—the groundless claim to heavy damages, in consequence of the protest of the bill drawn on the French Government, have, through various channels, been laid before Congress. Immediately after the close of the last session, the bank, through its president, announced its ability and readiness to abandon the system of unparalleled curtailment, and the interruption of domestic exchanges, which it had practised upon from the 1st of August, 1833, to the 30th June, 1834, and to extend its accommodations to the community. The grounds assumed in this annunciation amounted to an acknowledgment that the curtailment, in the extent to which it had been carried, was not necessary to the safety of the bank, and had been persisted in merely to induce Congress to grant the prayer of the bank in its memorial relative to the removal of the deposits, and to give it a new charter. They were substantially a confession that all the real distresses which individuals and the country had endured for the preceding six or eight months, had been needlessly produced by it, with the view of affecting, through the sufferings of the people, the legislative action of Congress. It is a subject of congratulation that Congress and the country had the virtue and firmness to bear the infliction; that the energies of our people soon found relief from this wanton tyranny, in vast importations of the precious metals from almost every part of the world; and that, at the close of this tremendous effort to control our Government, the bank found itself powerless, and no longer able to loan out its surplus means. The community had learned to manage its affairs without its assistance, and trade had already found new auxiliaries; so that, on the 1st of October last, the extraordinary spectacle was presented of a National Bank, more than one-half of whose capital was either lying unproductive in its vaults, or in the hands of foreign bankers.

To the needless distresses brought on the country during the last session of Congress, has since been added the open seizure of the dividends on the public stock, to the amount of one hundred and seventy thousand and forty-one dollars, under pretence of paying damages, cost, and interest, upon the protested French bill. This sum constituted a portion of the estimated revenues for the year 1834, upon which the appropriations made by Congress were based. It would as soon have been expected that our collectors would seize on the customs, or the receivers of our land offices on the moneys arising from the sale of public lands, under pretences of claims against the United States, as that the bank would have retained the dividends. Indeed, if the principle be established that any one who chooses to set up a claim against the United States may, without authority of law, seize on the public property or money, wherever he can find it, to pay such claim, there will remain no assurance that our revenue will reach the Treasury, or that it will be applied, after the appropriation, to the purposes designated in the law. The paymasters of our army, and the pursers of our navy, may, under like pretences, apply to their own use moneys appropriated to set in motion the public force, and in time of war leave the country without defence. This measure, resorted to by the bank, is disorganizing and revolutionary, and, if generally resorted to by private citizens in like cases, would fill the land with anarchy and violence.

It is a constitutional provision, that "no money shall be drawn from the Treasury but in consequence of appropriations made by law." The palpable object of this provision is to prevent the expenditure of the public money, for any purpose whatsoever, which shall not have been first approved by the representatives of the people and the States, in Congress assembled. It vests the power of declaring for what purposes the public money shall be expended in the Legislative Department of the Government, to the exclusion of the Executive and Judicial; and it is not within the constitutional authority of either of those departments to pay it away without law, or to sanction its payment. According to this plain constitutional provision, the claim of the bank can never be paid without an appropriation by act of Congress. But the bank has never asked for an appropriation. It attempts to defeat the provision of the constitution, and obtain payment without an act of Congress. Instead of awaiting an appropriation passed by both Houses, and approved by the President, it makes an appropriation for itself, and invites an appeal to the Judiciary to sanction it. That the money had not technically been paid into the Treasury, does not affect the principle intended to be established by the constitution. The Executive and Judiciary have as little right to appropriate and expend the public money without authority of law, before it is placed to the credit of the Treasurer, as to take it from the Treasury. In the annual report of the Secretary of the Treasury, and in his correspondence with the president of the bank, and the opinions of the Attorney-General accompanying it, you will find a further examination of the claims of the bank, and the course it has pursued.

It seems due to the safety of the public funds remaining in that bank, and to the honor of the American people, that measures be taken to separate the Government entirely from an institution so mischievous to the public prosperity, and so regardless of the constitution and laws. By transferring the public deposits; by appointing other pension agents, as far as it had the power; by ordering the discontinuance of the receipt of bank checks in payment of the public dues after the first day of January next, the Executive has exerted all its lawful authority to sever the connection between the Government and this faithless corporation.

The high-handed career of this institution imposes upon the constitutional functionaries of this Government, duties of the gravest and most imperative character—duties which they cannot avoid, and from which, I trust, there will be no inclination on the part of any of them to shrink. My own sense of them is most clear, as is also my readiness to discharge those which may rightfully fall on me. To continue any business relations with the Bank of the United States, that may be avoided without a violation of the national faith, after that institution has set at open defiance the conceded right of the Government to examine its affairs; after it has done all in its power to deride the public authority in other respects, and to bring it into disrepute at home and abroad; after it has attempted to defeat the clearly expressed will of the people, by turning against them the immense power entrusted to its hands, and, by involving a country, otherwise peaceful, flourishing, and happy, in dissension, embarrassment, and distress, would make the nation itself a party to the degradation so sedulously prepared for its public agents, and do much to destroy the confidence of mankind in popular Gov-

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ernments, and to bring into contempt their authority and efficiency. In guarding against an evil of such magnitude, considerations of temporary convenience should be thrown out of the question, and we should be influenced by such motives only as look to the honor and preservation of the republican system. Deeply and solemnly impressed with the justice of these views, I feel it to be my duty to recommend to you that a law be passed authorizing the sale of the public stock; that the provision of the charter requiring the receipt of notes of the bank in payment of public dues, shall, in accordance with the power reserved to Congress in the 14th section of the charter, be suspended until the bank pays to the Treasury the dividends withheld; and that all laws connecting the Government or its officers with the bank, directly or indirectly, be repealed; and that the institution be left hereafter to its own resources and means.

Events have satisfied my mind, and I think the minds of the American people, that the mischiefs and dangers which flow from a National Bank far overbalance all its advantages. The bold effort the present bank has made to control the Government, the distresses it has wantonly produced, the violence of which it has been the occasion in one of our cities famed for its observance of law and order, are but premonitions of the fate which awaits the American people should they be deluded into a perpetuation of this institution, or the establishment of another like it. It is fervently hoped that, thus admonished, those who have heretofore favored the establishment of a substitute for the present bank, will be induced to abandon it, as it is evidently better to incur any inconvenience that may be reasonably expected, than to concentrate the whole moneyed power of the republic in any form whatsoever, or under any restrictions.

Happily it is already illustrated that the agency of such an institution is not necessary to the fiscal operations of the Government. The State banks are found fully adequate to the performance of all services which were required of the Bank of the United States, quite as promptly, and with the same cheapness. They have maintained themselves, and discharged all these duties, while the Bank of the United States was still powerful, and in the field as an open enemy; and it is not possible to conceive that they will find greater difficulties in their operations, when that enemy shall cease to exist.

The attention of Congress is earnestly invited to the regulation of the deposits in the State banks, by law. Although the power now exercised by the Executive Department in this behalf is only such as was uniformly exerted through every administration, from the origin of the Government up to the establishment of the present bank, yet, it is one which is susceptible of regulation by law, and, therefore, ought so to be regulated. The power of Congress to direct in what places the Treasurer shall keep the moneys in the Treasury, and to impose restrictions upon the Executive authority in relation to their custody and removal, is unlimited, and its exercise will rather be courted than discouraged by those public officers and agents on whom rests the responsibility for their safety. It is desirable that as little power as possible should be left to the President or Secretary of the Treasury over those institutions; which, being thus freed from Executive influence, and without a common head to direct their operations, would have neither the temptation nor the ability to interfere in the political conflicts of the

country. Not deriving their charters from the national authorities, they would never have those inducements to meddle in general elections, which have led the Bank of the United States to agitate and convulse the country for upwards of two years.

The progress of our gold coinage is creditable to the officers of the mint, and promises in a short period to furnish the country with a sound and portable currency, which will much diminish the inconvenience to travellers of the want of a general paper currency, should the State banks be incapable of furnishing it. Those institutions have already shown themselves competent to purchase and furnish domestic exchange for the convenience of trade, at reasonable rates, and not a doubt is entertained that, in a short period, all the wants of the country in bank accommodations and in exchange will be supplied as promptly and cheaply as they have heretofore been by the Bank of the United States. If the several States shall be induced gradually to reform their banking systems, and prohibit the issue of all small notes, we shall, in a few years, have a currency as sound, and as little liable to fluctuations, as any other commercial country.

The report of the Secretary of War, together with the accompanying documents from the several bureaux of that department, will exhibit the situation of the various objects committed to its administration.

No event has occurred since your last session rendering necessary any movements of the army, with the exception of the expedition of the regiment of dragoons into the territory of the wandering and predatory tribes inhabiting the western frontier, and living adjacent to the Mexican boundary. These tribes have been heretofore known to us principally by their attacks upon our own citizens, and upon other Indians entitled to the protection of the United States. It became necessary for the peace of the frontiers to check these habitual inroads, and I am happy to inform you that the object has been effected without the commission of any act of hostility. Colonel Dodge, and the troops under his command, have acted with equal firmness and humanity, and an arrangement has been made with those Indians, which it is hoped will assure their permanent pacific relations with the United States and the other tribes of Indians upon that border. It is to be regretted that the prevalence of sickness in that quarter has deprived the country of a number of valuable lives, and particularly that General Leavenworth, an officer well known and esteemed for his gallant services during the late war, and for subsequent good conduct, has fallen a victim to his zeal and exertions in the discharge of his duty.

The army is in a high state of discipline. Its moral condition, so far as that is known here, is good, and the various branches of the public service are carefully attended to. It is amply sufficient, under its present organization, for providing the necessary garrisons for the seaboard and for the defence of the internal frontier, and also for preserving the elements of military knowledge, and for keeping pace with those improvements which modern experience is continually making. And these objects appear to me to embrace all the legitimate purposes for which a permanent military force should be maintained in our country. The lessons of history teach us its danger, and the tendency which exists to an increase. This can be best met and averted by a just caution on the part of the public

itself, and of those who represent them in Congress.

From the duties which devolve on the Engineer Department, and upon the Topographical Engineers, a different organization seems to be demanded by the public interest, and I recommend the subject to your consideration.

No important change has, during this season, taken place in the condition of the Indians. Arrangements are in progress for the removal of the Creeks, and will soon be for the removal of the Seminoles. I regret that the Cherokees east of the Mississippi have not yet determined to remove. How long the personal causes which have hitherto retarded that ultimately inevitable measure, will continue to operate, I am unable to conjecture. It is certain, however, that delay will bring with it accumulated evils, which will render their condition more and more unpleasant. The experience of every year adds to the conviction that emigration, and that alone, can preserve from destruction the remnant of the tribes yet living among us. The facility with which the necessaries of life are procured, and the treaty stipulations providing aid for the emigrant Indians in their agricultural pursuits, and in the important concern of education, and their removal from those causes which have heretofore depressed all and destroyed many of the tribes, cannot fail to stimulate their exertions and to reward their industry.

The two laws passed at the last session of Congress on the subject of Indian affairs, have been carried into effect, and detailed instructions for their administration have been given. It will be seen by the estimates for the present session that a great reduction will take place in the expenditures of the department in consequence of these laws. And there is reason to believe that their operation will be salutary, and that the colonization of the Indians on the western frontier, together with a judicious system of administration, will still further reduce the expenses of this branch of the public service, and at the same time promote its usefulness and efficiency.

Circumstances have been recently developed, showing the existence of extensive frauds under the various laws granting pensions and gratuities for revolutionary services. It is impossible to estimate the amount which may have been thus fraudulently obtained from the National Treasury. I am satisfied, however, it has been such as to justify a re-examination of the system, and the adoption of the necessary checks in its administration. All will agree, that the services and sufferings of the remnant of our revolutionary band should be fully compensated. But while this is done, every proper precaution should be taken to prevent the admission of fabricated and fraudulent claims. In the present mode of proceeding, the attestations and certificates of the judicial officers of the various States, form a considerable portion of the checks which are interposed against the commission of frauds. These, however, have been, and may be, fabricated, and in such a way as to elude detection at the examining offices. And independently of this practical difficulty, it is ascertained that these documents are often loosely granted; sometimes even blank certificates have been issued; sometimes prepared papers have been signed without inquiry; and, in one instance at least, the seal of the court has been within reach of a person most interested in its im-

proper application. It is obvious that, under such circumstances, no severity of administration can check the abuse of the law; and information has, from time to time, been communicated to the Pension Office, questioning or denying the right of persons placed upon the pension list, to the bounty of the country. Such cautions are always attended to, and examined. But a far more general investigation is called for. And I therefore recommend, in conformity with the suggestion of the Secretary of War, that an actual inspection should be made, in each State, into the circumstances and claims of every person now drawing a pension. The honest veteran has nothing to fear from such a scrutiny, while the fraudulent claimant will be detected, and the public treasury relieved to an amount, I have reason to believe, far greater than has heretofore been suspected. The details of such a plan could be so regulated as to interpose the necessary checks, without any burdensome operation upon the pensioners. The object should be twofold:

1. To look into the original justice of the claims, so far as this can be done under a proper system of regulations, by an examination of the claimants themselves, and by inquiring, in the vicinity of their residence, into their history, and into the opinions entertained of their revolutionary services.

2. To ascertain, in all cases, whether the original claimant is living, and this by actual personal inspection.

This measure will, if adopted, be productive, I think, of the desired results, and I therefore recommend it to your consideration, with the further suggestion, that all payments should be suspended till the necessary reports are received.

It will be seen, by a tabular statement annexed to the documents transmitted to Congress, that the appropriations for objects connected with the War Department, made at the last session, for the service of the year 1834, excluding the permanent appropriation for the payment of military gratuities under the act of June 7, 1832, the appropriation of two hundred thousand dollars for arming and equipping the militia, and the appropriation of ten thousand dollars for the civilization of the Indians, which are not annually renewed, amounted to the sum of nine million three thousand two hundred and sixty-one dollars, and that the estimates of appropriations necessary for the same branch of service, for the year 1835, amount to the sum of five million seven hundred and seventy-eight thousand nine hundred and sixty-four dollars, making a difference in the appropriations of the current year over the estimates of appropriations for the next, of three million two hundred and twenty-four thousand two hundred and ninety-seven dollars.

The principal causes which have operated at this time to produce this great difference, are shown in the reports and documents, and in the detailed estimates. Some of these causes are accidental and temporary, while others are permanent, and, aided by a just course of administration, may continue to operate beneficially upon the public expenditures.

A just economy, expending where the public service requires, and withholding where it does not, is among the indispensable duties of the Government.

I refer you to the accompanying report of the Secretary of the Navy, and to the documents with it, for a full view of the operations of that important branch of our service, during the present year. It will be seen that the wisdom and liberality with

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[SENATE.]

which Congress have provided for the gradual increase of our navy material, have been seconded by a corresponding zeal and fidelity on the part of those to whom has been confided the execution of the laws on the subject, and that but a short period would now be required to put in commission a force large enough for any exigency into which the country may be thrown.

When we reflect upon our position in relation to other nations, it must be apparent that, in the event of conflicts with them, we must look chiefly to our navy for the protection of our national rights. The wide seas which separate us from other Governments, must of necessity be the theatre on which an enemy will aim to assail us, and, unless we are prepared to meet him on this element, we cannot be said to possess the power requisite to repel or prevent aggressions. We cannot, therefore, watch with too much attention this arm of our defence, or cherish with too much care the means by which it can possess the necessary efficiency and extension. To this end our policy has been heretofore wisely directed to the constant employment of a force sufficient to guard our commerce, and to the rapid accumulation of the materials, which are necessary to repair our vessels, and construct with ease such new ones as may be required in a state of war.

In accordance with this policy, I recommend to your consideration the erection of the additional dry dock described by the Secretary of the Navy, and also the construction of the steam batteries to which he has referred, for the purpose of testing their efficiency as auxiliaries to the system of defence now in use.

The report of the Postmaster General, herewith submitted, exhibits the condition and prospects of that department. From that document, it appears that there was a deficit in the funds of the department, at the commencement of the present year, beyond its available means, of three hundred and fifteen thousand five hundred and ninety-nine dollars and ninety-eight cents, which, on the 1st of July last, had been reduced to two hundred and sixty-eight thousand and ninety-two dollars and seventy-four cents. It appears, also, that the revenues for the coming year will exceed the expenditures about two hundred and seventy thousand dollars, which, with the excess of revenue which will result from the operations of the current half year, may be expected, independently of any increase in the gross amount of postages, to supply the entire deficit before the end of 1835. But as this calculation is based on the gross amount of postages which had accrued within the period embraced by the times of striking the balances, it is obvious that, without a progressive increase in the amount of postages, the existing retrenchments must be persevered in through the year 1836, that the department may accumulate a surplus fund sufficient to place it in a condition of perfect ease.

It will be observed that the revenues of the Post Office Department, though they have increased, and their amount is above that of any former year, have yet fallen short of the estimates more than a hundred thousand dollars. This is attributed, in a great degree, to the increase of free letters growing out of the extension and abuse of the franking privilege. There has been a gradual increase in the number of executive officers to which it has been granted; and, by an act passed in March, 1833, it was extended to members of Congress throughout

the whole year. It is believed that a revision of the laws relative to the franking privilege, with some enactments to enforce more rigidly the restriction under which it is granted, would operate beneficially to the country, by enabling the department, at an earlier period, to restore the mail facilities that have been withdrawn, and to extend them more widely as the growing settlements of the country may require.

To a measure so important to the Government, and so just to our constituents, who ask no exclusive privileges for themselves, and are not willing to concede them to others, I earnestly recommend the serious attention of Congress.

The importance of the Post Office Department, and the magnitude to which it has grown, both in its revenues and in its operations, seem to demand its reorganization by law. The whole of its receipts and disbursements have hitherto been left entirely to Executive control and individual discretion. The principle is as sound in relation to this as to any other department of the Government, that as little discretion should be confided to the executive officer who controls it, as is compatible with its efficiency. It is therefore earnestly recommended that it be organized with an Auditor and Treasurer of its own, appointed by the President and Senate, who shall be branches of the Treasury Department.

Your attention is again respectfully invited to the defects which exists in the judicial system of the United States. Nothing can be more desirable than the uniform operation of the Federal Judiciary throughout the several States, all of which, standing on the same footing as members of the Union, have equal rights to the advantages and benefits resulting from its laws. This object is not attained by the judicial acts now in force, because they leave one-fourth of the States without circuit courts.

It is undoubtedly the duty of Congress to place all the States on the same footing in this respect, either by the creation of an additional number of associate judges, or by an enlargement of the circuits assigned to those already appointed, so as to include the new States. Whatever may be the difficulty in a proper organization of the judicial system, so as to secure its efficiency and uniformity in all parts of the Union, and at the same time to avoid such an increase of judges as would encumber the supreme appellate tribunal, it should not be allowed to weigh against the great injustice which the present operation of the system produces.

I trust that I may be also pardoned for renewing the recommendation I have so often submitted to your attention, in regard to the mode of electing the President and Vice President of the United States. All the reflection I have been able to bestow upon the subject increases my conviction that the best interests of the country will be promoted by the adoption of some plan which will secure, in all contingencies, that important right of sovereignty to the direct control of the people. Could this be attained, and the terms of those officers be limited to a single period of either four or six years, I think our liberties would possess an additional safeguard.

At your last session I called the attention of Congress to the destruction of the public building occupied by the Treasury Department. As the public interest requires that another building should be erected, with as little delay as possible, it is hoped that the means will be seasonably provided,

and that they will be ample enough to authorize such an enlargement and improvement in the plan of the building as will more effectually accommodate the public officers, and secure the public documents deposited in it from the casualties of fire.

I have not been able to satisfy myself that the bill entitled "An act to improve the navigation of the Wabash River," which was sent to me at the close of your last session, ought to pass, and I have, therefore, withheld from it my approval, and now return it to the Senate, the body in which it originated.

There can be no question connected with the administration of public affairs, more important or more difficult to be satisfactorily dealt with, than that which relates to the rightful authority and proper action of the Federal Government upon the subject of internal improvements. To inherent embarrassments have been added others resulting from the course of our legislation concerning it.

I have heretofore communicated freely with Congress upon this subject; and, in adverting to it again, I cannot refrain from expressing my increased conviction of its extreme importance, as well in regard to its bearing upon the maintenance of the constitution, and the prudent management of the public revenue, as on account of its disturbing effect upon the harmony of the Union.

We are in no danger from violations of the constitution by which encroachments are made upon the personal rights of the citizen. The sentence of condemnation long since pronounced by the American people upon acts of that character, will, I doubt not, continue to prove as salutary in its effects as it is irreversible in its nature. But against the dangers of unconstitutional acts which, instead of menacing the vengeance of offended authority, proffer local advantages, and bring in their train the patronage of the Government, we are, I fear, not so safe. To suppose that because our Government has been instituted for the benefit of the people, it must therefore have the power to do whatever may seem to conduce to the public good, is an error, into which even honest minds are too apt to fall. In yielding themselves to this fallacy, they overlook the great considerations in which the Federal Constitution was founded. They forget that, in consequence of the conceded diversities in the interest and condition of the different States, it was foreseen, at the period of its adoption, that although a particular measure of the Government might be beneficial and proper in one State, it might be the reverse in another—that it was for this reason the States would not consent to make a grant to the Federal Government of the general and usual powers of Government, but of such only as were specifically enumerated, and the probable effects of which they could, as they thought, safely anticipate; and they forget also the paramount obligation upon all to abide by the compact, then so solemnly, and, as it was hoped, so firmly established. In addition to the dangers to the constitution, springing from the sources I have stated, there has been one which was perhaps greater than all. I allude to the materials which this subject has afforded for sinister appeals to selfish feelings, and the opinion heretofore so extensively entertained of its adaptation to the purposes of personal ambition. With such stimulants it is not surprising that the acts and pretensions of the Federal Government in this behalf should sometimes have been

carried to an alarming extent. The questions which have arisen upon this subject have related—

1st. To the power of making internal improvements within the limits of a State, with the right of territorial jurisdiction, sufficient at least for their preservation and use.

2d. To the right of appropriating money in aid of such works when carried on by a State, or by a company in virtue of State authority, surrendering the claim of jurisdiction; and

3d. To the propriety of appropriations for improvements of a particular class, viz.: light-houses, beacons, buoys, public piers, and for the removal of sand-bars, sawyers, and other temporary and partial impediments in our navigable rivers and harbors.

The claims of power for the General Government upon each of these points certainly present matter of the deepest interest. The first is, however, of much the greatest importance, inasmuch as, in addition to the dangers of unequal and improvident expenditures of public moneys, common to all, there is superadded to that the conflicting jurisdictions of the respective Governments. Federal jurisdiction, at least to the extent I have stated, has been justly regarded by its advocates as necessarily appurtenant to the power in question, if that exists by the constitution. That the most injurious conflicts would unavoidably arise between the respective jurisdictions of the State and Federal Governments, in the absence of a constitutional provision marking out the respective boundaries, cannot be doubted. The local advantages to be obtained would induce the States to overlook, in the beginning, the dangers and difficulties to which they might ultimately be exposed. The powers exercised by the Federal Government would soon be regarded with jealousy by the State authorities, and, originating as they must from implication or assumption, it would be impossible to affix to them certain and safe limits. Opportunities and temptations to the assumption of power incompatible with State sovereignty would be increased, and those barriers which resist the tendency of our system towards consolidation greatly weakened. The officers and agents of the General Government might not always have the discretion to abstain from intermeddling with State concerns; and if they did, they would not always escape the suspicion of having done so. Collisions and consequent irritations would spring up; that harmony which should ever exist between the General Government and each member of the confederacy, would be frequently interrupted; a spirit of contention would be engendered, and the dangers of disunion greatly multiplied.

Yet we all know that, notwithstanding these grave objections, this dangerous doctrine was at one time apparently proceeding to its final establishment with fearful rapidity. The desire to embark the Federal Government in works of internal improvement, prevailed, in the highest degree, during the first session of the first Congress that I had the honor to meet in my present situation. When the bill authorizing a subscription on the part of the United States for stock in the Maysville and Lexington Turnpike Company, passed the two Houses, there had been reported, by the Committees on Internal Improvements, bills containing appropriations for such objects, inclusive of those for the Cumberland road, and for harbors and light-houses, to the amount of about one

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hundred and six millions of dollars. In this amount was included authority to the Secretary of the Treasury to subscribe for the stock of different companies to a great extent, and the residue was principally for the direct construction of roads by this Government. In addition to these projects, which had been presented to the two Houses under the sanction and recommendation of their respective Committees on Internal Improvements, there were then still pending before the committees, and in memorials presented, but not referred, different projects for works of a similar character, the expense of which cannot be estimated with certainty, but must have exceeded one hundred millions of dollars.

Regarding the bill authorizing a subscription to the stock of the Maysville and Lexington Turnpike Company as the entering wedge of a system, which, however weak at first, might soon become strong enough to rive the bands of the Union asunder, and believing that, if its passage was acquiesced in by the Executive and the people, there would no longer be any limitation upon the authority of the General Government in respect to the appropriation of money for such objects, I deemed it an imperative duty to withhold from it the Executive approval. Although, from the obviously local character of that work, I might well have contented myself with a refusal to approve the bill upon that ground, yet, sensible of the vital importance of the subject, and anxious that my views and opinions in regard to the whole matter should be fully understood by Congress, and by my constituents, I felt it my duty to go further. I therefore embraced that early occasion to apprise Congress that, in my opinion, the constitution did not confer upon it the power to authorize the construction of ordinary roads and canals within the limits of a State, and to say, respectfully, that no bill admitting such a power could receive my official sanction. I did so in the confident expectation that the speedy settlement of the public mind upon the whole subject would be greatly facilitated by the difference between the two Houses and myself, and that the harmonious action of the several departments of the Federal Government in regard to it would be ultimately secured.

So far at least as it regards this branch of the subject, my best hopes have been realized. Nearly four years have elapsed, and several sessions of Congress have intervened, and no attempt, within my recollection, has been made to induce Congress to exercise this power. The applications for the construction of roads and canals, which were formerly multiplied upon your files, are no longer presented; and we have good reason to infer that the current of public sentiment has become so decided against the pretension as effectually to discourage its re-assertion. So thinking, I derive the greatest satisfaction from the conviction that thus much at least has been secured upon this important and embarrassing subject.

From attempts to appropriate the national funds to objects which are confessedly of a local character, we cannot, I trust, have any thing further to apprehend. My views in regard to the expediency of making appropriations for works which are claimed to be of a national character, and prosecuted under State authority, assuming that Congress have the right to do so, were stated in my annual Message to Congress in 1830, and also in that containing my objections to the Maysville Road bill.

So thoroughly convinced am I that no such appropriations ought to be made by Congress, until a suit-

able constitutional provision is made upon the subject, and so essential do I regard the point to the highest interests of our country, that I could not consider myself as discharging my duty to my constituents in giving the Executive sanction to any bill containing such an appropriation. If the people of the United States desire that the public Treasury shall be resorted to for the means to prosecute such works, they will concur in an amendment of the constitution, prescribing a rule by which the national character of the works is to be tested, and by which the greatest practicable equality of benefits may be secured to each member of the confederacy. The effects of such a regulation would be most salutary in preventing unprofitable expenditures, in securing our legislation from the pernicious consequences of a scramble for the favors of Government, and in repressing the spirit of discontent which must inevitably arise from an unequal distribution of treasures which belong alike to all.

There is another class of appropriations for what may be called, without impropriety, internal improvements, which have always been regarded as standing upon different grounds from those to which I have referred. I allude to such as have for their object the improvement of our harbors, the removal of partial and temporary obstructions in our navigable rivers, for the facility and security of our foreign commerce. The grounds upon which I distinguished appropriations of this character from others have already been stated to Congress. I will now only add that at the first session of Congress under the new constitution, it was provided, by law, that all expenses which should accrue from and after the 15th day of August, 1789, in the necessary support, and maintenance, and repairs of all light-houses, beacons, buoys, and public piers, erected, placed, or sunk, before the passage of the act, within any bay, inlet, harbor, or port of the United States, for rendering the navigation thereof easy and safe, should be defrayed out of the Treasury of the United States; and, further, that it should be the duty of the Secretary of the Treasury to provide, by contracts, with the approbation of the President, for rebuilding, when necessary, and keeping in good repair the light-houses, beacons, buoys, and public piers, in the several States, and for furnishing them with supplies. Appropriations for similar objects have been continued from that time to the present, without interruption or dispute. As a natural consequence of the increase and extension of our foreign commerce, ports of entry and delivery have been multiplied and established, not only upon our seaboard, but in the interior of the country, upon our lakes and navigable rivers. The convenience and safety of this commerce have led to the gradual extension of these expenditures; to the erection of light-houses; the placing, planting, and sinking of buoys, beacons, and piers, and to the removal of partial and temporary obstructions in our navigable rivers, and in the harbors upon our great lakes, as well as on the seaboard. Although I have expressed to Congress my apprehension that these expenditures have sometimes been extravagant, and disproportionate to the advantages to be derived from them, I have not felt it to be my duty to refuse my assent to bills containing them, and have contented myself to follow, in this respect, in the footsteps of all my predecessors. Sensible, however, from experience and observation, of the great abuses to which the un-

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restricted exercise of this authority of Congress was exposed, I have prescribed a limitation for the government of my own conduct, by which expenditures of this character are confined to places below the ports of entry or delivery established by law. I am very sensible that this restriction is not as satisfactory as could be desired, and that much embarrassment may be caused to the Executive Department in its execution, by appropriations for remote, and not well understood objects. But as neither my own reflections, nor the lights which I may properly derive from other sources, have supplied me with a better, I shall continue to apply my best exertions to a faithful application of the rule upon which it is founded. I sincerely regret that I could not give my assent to the bill entitled "An act to improve the navigation of the Wabash River;" but I could not have done so without receding from the ground which I have, upon the fullest consideration, taken upon this subject, and of which Congress has been heretofore apprised, and without throwing the subject again open to abuses which no good citizen, entertaining my opinions, could desire.

I rely upon the intelligence and candor of my fellow-citizens, in whose liberal indulgence I have already so largely participated, for a correct appreciation of my motives in interposing, as I have done, on this, and other occasions, checks to a course of legislation which, without, in the slightest degree, calling in question the motives of others, I consider as sanctioning improper and unconstitutional expenditures of public treasure.

I am not hostile to internal improvements, and wish to see them extended to every part of the country. But I am fully persuaded, if they are not commenced in a proper manner, confined to proper objects, and conducted under an authority generally conceded to be rightful, that a successful prosecution of them cannot be reasonably expected. The attempt will meet with resistance, where it might otherwise receive support, and, instead of strengthening the bonds of our confederacy, it will only multiply and aggravate the causes of disunion.

ANDREW JACKSON.

DECEMBER 1, 1834.

On motion of Mr. WHITE, 5,000 extra copies of the Message, and 1,500 of the accompanying documents, were ordered to be printed for the use of the Senate.

WEDNESDAY, December 8.

Mr. BROWN, of North Carolina; Mr. TOMLINSON, of Connecticut; and Mr. SPRAGUE, of Maine, attended to-day.

The CHAIR communicated the annual report of the Secretary of the Treasury on the state of the finances; which, without reading, was, with the accompanying documents, ordered to be printed.

THURSDAY, December 4.

Mr. LEIGH, of Virginia, attended to-day.

The following Message was received from the President of the United States:

Message from the President—Letter from Mr. George Washington Lafayette—Copy of the Declaration of Independence from General Lafayette.

To the Senate of the United States:

I transmit to Congress a communication addressed to me, by Mr. George Washington Lafayette, accompanying a copy of the Declaration of Independence, engraved on copper, which his illustrious father bequeathed to Congress, to be placed in their library, as a last tribute of respect, patriotic love, and affection for his adopted country.

I have a mournful satisfaction in transmitting this precious bequest of that great and good man, who, through a long life, under many vicissitudes, and in both hemispheres, sustained the principles of civil liberty asserted in that memorable declaration, and who, from his youth to the last moment of his life, cherished for our beloved country the most generous attachment.

ANDREW JACKSON.

December 4, 1834.

[The letter inclosed in the above.]

PARIS, June 15, 1834.

SIR: A great misfortune has given me more than one solemn and important duty to fulfil, and the ardent desire of accomplishing with fidelity my father's last will, emboldens me to claim the patronage of the President of the United States, and his benevolent intervention, when I am obliged respectfully and mournfully to address the Senate and Representatives of a whole nation.

Our forever beloved parent possessed a copper-plate, on which was inscribed the first engraved copy of the American Declaration of Independence, and his last intention, in departing this world, was that the precious plate should be presented to the Congress of the United States, to be deposited in their library, as a last tribute of respect, patriotic love and affection for his adopted country.

Will it be permitted to me, a faithful disciple of that American school, whose principles are so admirably exposed in that immortal declaration, to hope that you, sir, would do me the honor to communicate this letter to both Houses of Congress, at the same time that, in the name of his afflicted family, you would present to them my venerated father's gift.

In craving such an important favor, sir, the son of General Lafayette—the adopted grandson of Washington—knows, and shall never forget, that he would become unworthy of it, if he was ever to cease to be a French and American patriot.

With the utmost respect, I am, sir,

Your devoted and obedient servant,

GEORGE W. LAFAYETTE.

To the PRESIDENT of the United States.

MONDAY, December 8.

MESSRS. WEBSTER, of Massachusetts; WAGGAMAN, of Louisiana; PRENTISS, of Vermont; KING, of Alabama; and CLAYTON, of Delaware, appeared, and took their seats.

WEDNESDAY, December 10.

Mr. PRESTON, of South Carolina, attended to-day.

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French Spoliations prior to 1800.

[SENATE.]

MONDAY, December 15.

The following Senators appeared and took their seats, viz.: from South Carolina, Mr. CALHOUN; from Louisiana, Mr. PORTER; from Mississippi, Mr. BLACK; from Missouri, Mr. LINN.

Also, JAMES BUCHANAN, elected a Senator from Pennsylvania, to fill the vacancy occasioned by the resignation of Mr. WILKINS, appeared, was qualified, and took his seat.

Mr. BENTON presented a certificate of the election of Mr. LINN as a Senator from the State of Missouri.

These gentlemen took the customary oath.

Lafayette.

The following Message was received from the President of the United States:

To the Senate of the United States:

The joint resolutions of Congress, unanimously expressing their sensibility on the intelligence of the death of General Lafayette, were communicated, in compliance with their will, to George Washington Lafayette, and the other members of the family of that illustrious man. By their request, I now present the heartfelt acknowledgment of the surviving descendants of our beloved friend, for that highly valued proof of the sympathy of the United States.

ANDREW JACKSON.

WASHINGTON, December 10, 1834.

WASHINGTON, June 27, 1834.

To GEORGE WASHINGTON LAFAYETTE, and the other members of the family of the late General Lafayette:

In compliance with the will of Congress, I transmit to you the joint resolutions of the two Houses, unanimously expressing the sensibility with which they received the intelligence of the death of "General Lafayette, the friend of the United States, the friend of Washington, and the friend of Liberty;" and I also assure you of the condolence of this whole nation in the irreparable bereavement which by that event you have sustained.

In complying with the request of Congress, I cannot omit the occasion of offering you my own condolence in the great loss you have sustained, and of expressing my admiration of the eminent virtues of the distinguished patriot whom it has pleased Providence to remove to his high reward.

I also pray you to be persuaded that your individual welfare and prosperity will always be with me objects of that solicitude which the illustrious services of the great friend and benefactor of my country are calculated to awaken.

ANDREW JACKSON,
President of the United States.

LA GRANGE, October 21, 1834.

SIR: The resolution of Congress, communicated to me by your honored favor of the 27th of June, that glorious testimony of American national affection for my beloved and venerated father, has been received by his family with the deepest sense of the most respectful, and, give me leave to say, filial gratitude.

And now, sir, that we experience the benefits of

such a high and soothing sympathy, we find ourselves called to the honor of addressing to the people and Congress of the United States our heartfelt and dutiful thanks. Sir, you were the friend of my father, and the kind letter which accompanied the precious message seems to be for us a sufficient authorization to our claiming once more your honorable assistance, for the accomplishment of a duty dear to our hearts.

We most fervently wish that the homage of our everlasting devotion to a nation, whose tears have deigned to mingle with ours, should be offered to both Houses of Congress. Transmitted by you, sir, that homage shall be rendered acceptable; and we earnestly pray you, sir, to present it in our name. Our gratitude shall be forever adequate to the obligation.

The resolution which so powerfully honors my father's memory shall be deposited, as a most sacred family property, in that room of mourning where once his son and grandsons, used to receive, with avidity, from him, lessons of patriotism and active love of liberty: there, the daily contemplation of it will more and more impress their minds with that encouraging conviction, that the affection and esteem of a free nation is the most desirable reward that can be obtained upon earth.

With the utmost respect, sir, I have the honor to be

Your devoted and obedient servant,

GEORGE W. LAFAYETTE.

The message received from the House of Representatives last week, informing the Senate of the proceedings taken by the House, in obedience to a resolution of the last session, to pay honors to the memory of General Lafayette, was taken up and concurred in; and a committee of five members was ordered, on motion of Mr. WEBSTER, to be appointed by the Chair, on the part of the Senate.

TUESDAY, December 16.

Election of Chaplain.

The Senate proceeded to ballot for Chaplain, and Mr. Hatch, having received a majority of the votes, was declared to be duly elected Chaplain, on the part of the Senate, for the session.

WEDNESDAY, December 17.

French Spoliations prior to 1800.

The bill to provide for the satisfaction of claims due to certain American citizens for spoliations committed on their commerce prior to the 30th day of September, 1800, coming up for consideration—

Mr. WEBSTER said he should content himself with stating very briefly an outline of the grounds on which these claims are supposed to rest, and then leave the subject to the consideration of the Senate. He, however, should be happy, in the course of the debate, to make such explanations as might be called for. It would be seen that the bill proposed to make satisfaction, to an amount not exceeding five millions

of dollars, to such citizens of the United States, or their legal representatives, as had valid claims for indemnity on the French Government, rising out of illegal captures, detentions, and condemnations, made, or committed on their property prior to the 80th day of September, 1800. This bill supposed two or three leading propositions to be true.

It supposed, in the first place, that illegal seizures, detentions, captures, condemnations, and confiscations, were made, of the vessels and property of the citizens of the United States, before the 80th September, 1800.

It supposed, in the second place, that these acts of wrong were committed by such orders and under such circumstances, as that the sufferers had a just right and claim for indemnity from the hands of the Government of France.

Going on these two propositions, the bill assumed one other, and that was, that all such claims on France as came within a prescribed period, or down to a prescribed period, had been annulled by the United States, and that this gave them a right to claim indemnity from this Government. It supposed a liability in justice, in fairness and equity, on the part of this Government, to make the indemnity. These were the grounds on which the bill was framed. That there were many such confiscations no one doubted, and many such acts of wrong as were mentioned in the first section of the bill. That they were committed by Frenchmen, and under such circumstances as gave those who suffered wrong an unquestionable right to claim indemnity from the French Government, nobody, he supposed, at this day, would question. There were two questions which might be made the subject of discussion, and two only occurred to him at that moment. The one was, "On what ground was the Government of the United States answerable to any extent for the injury done to these claimants?" The other, "To what extent was the Government in justice bound?" And *first*—of the first. "Why was it that the Government of the United States had become responsible in law or equity to its citizens, for the claims—for any indemnity for the wrongs committed on their commerce by the subjects of France before 1800?"

To this question there was an answer, which, whether satisfactory or not, had at least the merit of being a very short one. It was, that, by a treaty between France and the United States, bearing date the 80th of September, 1800, in a political capacity, the Government of the United States discharged and released the Government of France from this indemnity. It went upon the ground, which was sustained by all the correspondence which had preceded the treaty of 1800, that the disputes arising between the two countries should be settled by a negotiation. And claims and pretensions having been asserted on either side,

commissioners on the part of the United States were sent out to assert and maintain the claims of indemnity which they demanded; while commissioners appointed on the part of the French asserted a claim to the full extent of the stipulations made in '78, which they said the United States had promised to fulfil, and in order to carry into effect the treaty of alliance of the same date, viz.: February, 1778.

The negotiation ultimately terminated, and a treaty was finally ratified upon the terms and conditions of an offset of the respective claims against each other, and forever; so that the United States Government, by the surrender and discharge of these claims of its citizens, had made this surrender to the French Government to obtain for itself a discharge from the onerous liabilities imposed upon them by the treaty of 1778, and in order to escape from fulfilling other stipulations proclaimed in the treaty of commerce of that year, and which, if not fulfilled, might have brought about a war with France. This was the ground on which these claims rested.

Mr. TYLER said these claims had been pressed on the ground that the United States had, by the treaty of 1800, made provision for the payment, and had discharged France from all liability. Turn and twist it as you will, said Mr. T., the argument amounts only to this: that the Government of the United States, for a valid consideration, assumed these claims. And what was that consideration? It was a consideration upon which no payment could be made, on which no claimant could rest. By the treaty of 1778, there were mutual stipulations between France and the United States. One of these stipulations was that France should guaranty the independence of the United States, while the United States should guaranty to France the two West India islands, Guadaloupe and Martinique.

In the war which prevailed afterwards between Great Britain and France, the obligation on the United States to fulfil this part of the treaty remained in full force. Was it expected that the United States should make herself a party to this war? He put it to the gentleman from Massachusetts to say, with all the correspondence before him, if there was not then a great anxiety on the part of the United States to get rid of that guarantee. Had an American citizen a right to come here for compensation for losses, because the United States, by a subsequent treaty, got rid of that guarantee? The United States never intended to comply with that feature of the treaty of 1778. Yet the ground taken was, that, because the United States had got rid of the guarantee, she was bound to compensate for these spoliations. He contended that such a conclusion was in opposition to every authority which could be brought forward.

But there were other grounds which pressed themselves upon his memory. A great part of these claims would go to the insurers.

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What he said was this: if the Government was bound to repay the losses of these insurers, it was equally entitled to share in their profits, according to the established policy of insurance offices, and there were immense profits made during that period, otherwise it would be a total loss to the United States of the whole insurance, premium and all. He was willing to go into a statement of the accounts—to take the losses and take also the profits of a period during which the enterprise of the United States was extended beyond every former period.

He threw out these views to attract the attention of Senators. He could not suffer himself to remain quiet in his seat without having said thus much—his principal design being to awaken the attention of the Senate.

After a few remarks from Mr. BENTON, Mr. PEPPER, and Mr. SHELLEY, the consideration of the bill was postponed.

MONDAY, December 22.

Presents from Foreign Powers.

The joint resolution from the House, authorizing the sale of the lion and horses presented to the United States consul at Tangiers, by the Emperor of Morocco, was read twice.

Mr. CLAY said, as there was no very appropriate committee to which the resolution could be sent, he would move to refer the resolution to the Committee on Agriculture.

Mr. KING, of Alabama, observed that, as the presents appeared to be connected with our foreign relations, he thought the Committee on Foreign Relations the most appropriate one for the resolution to be sent to.

Mr. CLAY objected to that reference, as the animals, he was informed, were now in this city, and the subject was not connected with our foreign affairs.

Mr. KING replied that, if the Committee on Agriculture desired to take charge of the subject, (not being himself on the committee,) he had no objection. But, as it appeared that our consuls and other public functionaries could receive no presents from foreign powers, and, in previous instances, when induced to do so rather than give offence to those who presented them; they had been sent to the Government, he thought the committee he had indicated the most suitable one. But if the Agricultural Committee were desirous of using the horses, he (Mr. K.) had no objection.

The resolution was referred to the Committee on Agriculture.

French Spoiliations.

The bill providing indemnity to American citizens who suffered by spoiliations on their commerce, committed by the French prior to 1800, was taken up.

Mr. SHELLEY said: Mr. President, I shall at-

tempt to show that the property of our citizens was illegally taken from them by France; that their right to have compensation from France was recognized by the United States; that it was also admitted by France; that France had claims against the United States, the justice of which, to some extent, was not denied; that compensation for these injuries might have been obtained from France, if we had been willing to institute a commission for mutual compensation for injuries. France offered this. That compensation was not obtained, because the United States chose to discharge these claims for the purpose of obtaining a discharge of her obligations to France. The right to compensation was not destroyed by a state of war.

For the purpose of showing the character of the injuries inflicted upon our commerce, it will be necessary to examine the commercial relations between this country and France at that time.

By the treaty of amity and commerce of the 6th of February, 1778, article 23d, it is provided that it shall be lawful for the subjects of France, and the people of the United States, "to sail with their ships with all manner of liberty and security, no distinction being made who are the proprietors of the merchandises laden thereon, from any port to the places of those who now are, or hereafter shall be, at enmity with the Most Christian King or the United States." And this, "not only directly from the places of the enemy aforementioned to neutral places, but also from one place belonging to an enemy to another place belonging to an enemy, whether they be under the jurisdiction of the same prince, or under several." And it is hereby stipulated that "free ships shall also give a freedom to goods; and that every thing shall be deemed to be free and exempt," although the whole lading, or any part thereof, should appertain to the enemies of either, contraband goods being always excepted.

The 24th article enumerates the goods which are to be regarded as contraband.

The 25th article prescribes that, in case either party shall be engaged in a war, its ships and vessels "must be furnished with sea-letters or passports, expressing the name, property, and bulk of the ship," according to the form annexed to the treaty. This was to be the evidence of the property of the ship as respects its national character.

It was during the existence of this treaty, admitted by both parties to be then obligatory upon the parties to it, that the first clause of the complaint arose.

By a decree of the National Convention of France, of the date of 9th May, 1793, it is declared: "Art. 1. The French ships of war and privateers may arrest and bring into the ports of the Republic the neutral vessels which shall be laden, wholly or in part, either with articles of provisions belonging to neutral nations and

destined to an enemy's port, or with merchandises belonging to an enemy."

The same convention, on the 28d of the same month, declared, by decree, "that the vessels of the United States are not comprehended in the dispositions of the decree of the 9th of May."

This decree of the 23d was repealed on the 28th of May.

The Convention, on the 1st of July, again decreed that the vessels of the United States were not comprehended in the decree of the 9th of May. And the decree of the 27th July again "maintained the dispositions of that of the 9th of May."

The Executive Directory, on the 2d of July, 1796, declared "that neutral and allied powers shall, without delay, be notified that the flag of the French Republic will treat neutral vessels, either as to confiscation, as to searches or capture, in the same manner as they shall suffer the English to treat them."

And on the 2d March, 1797, the Directory decreed "that the French vessels of war and privateers may stop and carry into the ports of the Republic neutral vessels which may be found loaded entirely or in part with merchandise belonging to the enemy."

The French Minister of the Marine and of the Colonies, on the 30th April, 1797, declares: "Every American ship must have a passport and a role d'equipage (ship's roll)—I mean a liste d'equipage (crew list). Whereas, without these papers, she ought to be confiscated." And he gives reasons for it; and yet the passport only was required by the treaty, as was afterwards admitted by France.

The Council of Five Hundred, on the 11th January, 1798, decreed that "the character of the vessel, relative to the quality of neuter or enemy, is determined by her cargo."

An extraordinary tribunal was made the organ to decide upon prizes, by a decree of 8th of November, 1798, declaring "the validity or invalidity of prizes made by privateers shall be decided by way of administration by the Provisionary Executive Council."

All these decrees and the proceedings under them, were not only in direct violation of the treaty and the articles recited, but so far these depredations on our commerce took place before the passage of the act of Congress of the 7th of July, 1798, annulling the treaties.

The right of the citizens to have compensation from France was, as I have said, recognized by the United States.

The Secretary of State, Mr. Jefferson, in a circular letter addressed to the merchants, under date of August, 1798, says: "I have it in charge from the President, to assure the merchants of the United States, concerned in foreign commerce or navigation, that due attention will be paid to any injuries they may suffer on the high seas or in foreign countries, contrary to the law of nations or to existing treaties; and that, on their forwarding hither well-authenticated evi-

dence of the same, proper proceedings will be adopted for their relief." And in a letter to our minister to Great Britain, under date of April 26, 1797, the Secretary says "that nearly all the vessels, or cargoes, or both, which are carried in by their privateers, are condemned by the civil authorities on shore. Besides, when he (Mr. Adet) mentions unauthorized captures, he cannot refer to the multitude which we complain of as made in direct violation of our treaty with France."

In the instructions to our envoys to France, under date of July 15, 1797, is this declaration: "Indeed, the greater part, probably nearly all the captures and confiscations in question, have been committed in direct violation of that treaty, or of the law of nations."

The President of the United States in his speech of the 8th of December, 1798, speaking of a decree of the Directory, says "it enjoins them to conform to all the laws of France relative to cruising and prizes; while these laws are themselves the sources of the depredations of which we have so long, so justly, and so fruitlessly complained." So perfect was the right of the citizens to have compensation regarded, that in the instructions, under date of 22d October, 1779, to our envoys to France, is this clause:

"First. At the opening of the negotiation, you will inform the French ministers that the United States expect from France, as an indispensable condition of the treaty, a stipulation to make to the citizens of the United States full compensation for all losses and damages which they shall have sustained by reason of irregular or illegal captures, or condemnations of their vessels and their property, under color of authority or commissions from the French Republic or its agents."

It remains next to ascertain whether France did not admit her obligation to make compensation.

In the deliberations of the Executive Directory, on the 31st July, 1798, it is stated that such information has been received, as to "leave no room to doubt that French cruisers, or such as call themselves French, have infringed the laws of the Republic relative to cruising and prizes." And in a decree of the 18th March, 1799, the Executive Directory admits that the former decree, "in what relates to the roles d'equipages with which neutral vessels ought to be furnished, has had improper interpretations, so far as concerns the roles d'equipages of American vessels, and that it is time to do away the obstacles resulting therefrom to the navigation of the vessels of that nation."

Our envoys claiming compensation from France, find France also claiming a fulfillment on our part of the treaties; and in their letter of 17th May, 1800, to the Secretary of State, they say: "Our success is doubtful. The French think it hard to indemnify for violating engagements, unless they can thereby be restored to the benefits of them." The objection here then is not to making an indemnity, but

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to making it without having the benefit of the same treaties, for the violation of which we claimed of them compensation.

The French ministers, in their proposal to the American envoys, under date of the 11th August, 1800, say: "Thus, the first proposition of the ministers of France is to stipulate a full and entire recognition of treaties, and the reciprocal engagement of compensation for damages resulting on both sides from their infraction." If this is not accepted, they then propose "the abolition of ancient treaties," and in such case "there would be no demand of compensation." Here, then, is an offer of compensation for injuries to our citizens, made by France; but she claimed compensation from the United States for the non-fulfilment of the treaties, and that the compensation should be reciprocal.

These claims of France against the United States arose out of our neglect or refusal, as she alleged, to fulfil the stipulations of treaties. They were, first: the 11th article of the treaty of alliance of 6th February, 1778. This article stipulated the guarantee should be on the part of "the United States to his Most Christian Majesty, the present possessions of the Crown of France in America, as well as those which it may acquire by the future treaty of France."

And, secondly, the 17th and 22d articles of the treaty of commerce of the same date. By the first of these articles, the privateers and prizes of France might enter our ports and depart at pleasure, and the privateers and vessels of the enemies of France were excluded from our ports. And the latter article prohibited the privateers of the enemies of France from being fitted out in our ports, and sale of their prizes being made in them, or even provision furnished, more than was necessary for their going to the next port. The importance of the stipulations to France will be readily acknowledged when we remember that she was at war with England; that she had islands in the West Indies to be preserved; that, by having a place of refuge in our ports for her armed vessels, she could greatly harass and injure the very extensive commerce of England in the West Indies; take her vessels and retreat in safety with them to our ports. Our Government, it is well known, determined to maintain a strict neutrality between the contending parties, and refused to France the advantages which these treaties gave her; and this course was the occasion of great complaint, and of a very sharp correspondence between the ministers of France and of this Government.

In the course of the negotiation to settle the difficulties between the two nations, our ministers, not being authorized or willing to agree to "the reciprocal engagement of compensation for damages resulting on both sides" from the breach of the treaties, as proposed by France, offered finally, in their letter of the 20th of August, 1800, that the ancient treaties should be renewed and confirmed, with certain modifications. These were, that the articles respecting privateers and prizes should be so modified

as, upon payment of 3,000,000 francs within seven years, no greater rights than those of the most favored nations should exist. And that the mutual guarantee should, for the future, be considered as fulfilled, by affording aid to the amount of 1,000,000 francs when either party was attacked; and that either party might "exonerate itself wholly from its obligation by paying to the other, within seven years, a gross sum of 5,000,000 francs, in money, or such securities as may be issued for indemnities;" and that "there shall be a reciprocal stipulation for indemnities, and these indemnities shall be limited to the claims of individuals." It will be noticed here that the United States ministers do not offer to France any compensation for the injury to France, as a nation, for the claims respecting the guarantee and the privileges for privateers and prizes for the past.

The French ministers, on the 25th of August, say that their proposal to confirm the ancient treaties, and for mutual compensation, "did away all idea of a modification;" and that, as the American ministers had proposed an essential modification of the 17th article, "it is therefore evident that this note refers to the second part of the alternative, which consisted of a new treaty, without indemnity." "The French ministers therefore insist upon the condition, that all stipulation for indemnities be laid aside." They make the following propositions to our ministers:

"1st. The ancient treaties shall be continued and confirmed, to have their full force, as if no misunderstanding between the two nations had ever occurred.

"2d. Commissioners shall be appointed to liquidate the respective losses.

"3d. The 17th article of the treaty of commerce of 1778 shall be continued in full force, with a single addition, immediately after these words, to wit: 'And on the contrary, no shelter shall be given in their ports or harbors to such as shall have made prize of the subjects of his Majesty, or of the citizens of the United States,' there shall be added, 'if it be not in virtue of known treaties on the day of the signature of the present, and subsequent to the treaty of 1778, and that for the space of seven years.' The 22d article subject to the same reservation as the 17th article.

"4th. If, during the term of seven years, the proposal to establish the 17th and 22d articles be not made and accepted without reserve, the award for indemnities determined by the commissioners shall not be allowed.

"5th. The guarantee stipulated by the treaty of alliance shall be converted into a grant of succor for two millions. But this grant shall not be redeemable unless by a capital of ten millions."

These proposals not being satisfactory to the American ministers, the French ministers made, on the 4th of September, 1800, proposals anew:

"We shall have the right to take our prizes into the ports of America.

"A commission shall regulate the indemnities which either of the two nations may owe to the citizens of the other. The indemnities which shall be

due by France shall be paid by the United States. And in return for which, France yields the exclusive privilege resulting from the 17th and 22d articles of the treaty of commerce, and from the rights of guarantee of the 11th article of the treaty of alliance."

The American ministers answer on the 8th of September, and say these proposals are inadmissible, "the nearest approach to them" is

"1st. The former treaties shall be renewed and confirmed.

"2d. The obligations of the guarantee shall be specified and limited as in the first paragraph of their third proposition of the 20th of August.

"3d. There shall be mutual indemnity and a mutual restoration of captured property not yet definitely condemned, according to their fifth and sixth propositions of that date.

"4th. If, at the exchange of ratifications, the United States propose a mutual relinquishment of indemnity, the French Republic will agree to the same, and in such case the former treaties shall not be deemed obligatory, except under the seventeenth and twenty-second articles of that of commerce, the parties shall continue forever to have for their public ships of war, privateers, and prizes, such privileges, in the ports of each other, as the most favored nation shall enjoy."

The American ministers requested a conference to consider these propositions; and in their journal, under 12th September, they say, "The first and third were agreed to, with some modification of the third as to the rules of evidence, which did not vary its principle." The second and fourth were considered together, as in some measure connected, and, after considerable discussion, the French ministers said, unless an option precisely similar and reciprocal was assured to the French Republic, the operation of which would enable her to get rid of the indemnities, by an offer of abandoning the exclusive privileges, they could not agree to it.

Here it will be noticed that it was agreed that, upon the former treaties being confirmed, indemnities should be paid, but France would not yield her exclusive rights under the treaties, but by payment being made to our citizens by their own Government, or by a relinquishment of indemnities. Our ministers were not authorized to relinquish the indemnities, or to provide for their payment by the United States; and hence they say, on the 13th September, in their journal, that "being now convinced that the door was perfectly closed against all hope of obtaining indemnities with any modifications of the treaties, it remained only to be determined to attempt a temporary arrangement, which would extricate the United States from the war, or that peculiar state of hostility in which they are at present involved."

The indemnities were not abandoned by the negotiators, but they postponed the further discussion of the claims, on each side, to a future day, and on the 30th September concluded and signed a treaty, the second article of which is as follows:

"ARTICLE 2. The ministers plenipotentiary of the two parties not being able to agree at present respecting the treaty of alliance of the 6th of February, 1778, the treaty of amity and commerce of the same date, and the convention of the 14th of November, 1788, nor upon the indemnities mutually due or claimed, the parties will negotiate further on these subjects at a convenient time; and until they may have agreed upon these points, the said treaties and convention shall have no operation, and the relations of the two countries shall be regulated as follows."

On the 3d of February, 1801, the treaty was ratified by the Senate, "provided the second article be expunged," and by adding an article limiting the operation of the treaty to a term of eight years.

On the 31st of July, 1801, it was also ratified on the part of France, agreeing to the limitation, and to "the retrenchment of the second article, provided that by this retrenchment the two States renounce the respective pretensions which are the object of the said article."

On the 19th of December following, the treaty was again submitted to the Senate, which "resolved that they considered the said convention as fully ratified."

This is the history of the final discharge of France from all obligation to compensate our citizens for losses. It was effected by the act of this Government in expunging the second article of the convention, and regarding it as fully ratified, with the express provision annexed by France that it was a renunciation, by each nation, of its claims. Thus, also, the United States were forever discharged from the onerous burdens of the ancient treaties, and from all claim of indemnity, for refusing to France the privileges which they secured to her. And at the same time and by the same act and instrument these claimants were forever deprived of obtaining that indemnity from France, which if these claims had been kept separate, and never had been connected with any subject of national grievance, they most certainly would have obtained. The history of negotiation cannot show a more direct surrender of an admitted claim, as a consideration of the release of an obligation. France always offered to set off one class of claims against the other; the envoys of the United States refused it; the Senate and the French Government agreed to it, and accomplished it. Nor was the right to compensation destroyed by a state of war. Neither nation regarded the right to claim, or the obligation to compensate, as destroyed, on account of an existing war. The United States claimed an indemnity as an existing right; and France admitted the claim to be good. It is true, that the United States authorized the capture of the vessels of France on the high seas, but they declared it to be only in defence of the persons and property of their citizens. War was not declared by either nation. And in the convention of 30th September, 1800, the claims on both sides were, by the second article, regarded as subsisting and valid. This would not have

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been done, if war had destroyed the right to have a future negotiation and compensation. France, in her negotiations, declared, as our envoys say, that her object was to avoid making compensation for these claims, because she would find herself too much exhausted by the war to satisfy them; and yet, anxious as she was, she never insisted upon a discharge, because a state of war had existed.

On the 16th August, 1798, the Executive Directory declare their wish "to pursue the friendly habits of France towards a people whose liberty it defended." And at the same period the Minister of Marine says: "Our political situation, with regard to the United States citizens, not having as yet undergone any change which can effect the respect due to neutral nations," "no injury should be done to the safety and liberty of the officers and crews of any American vessels."

The French ministers, in their letter of the 6th of May, 1800, speak of the "misunderstanding" and "transient misunderstanding."

And in their letter of the 11th of August following, the French ministers say, "that the treaties which united France and the United States are not broken; that even war could not break them; but that the state of misunderstanding which has existed for some time has not been a state of war, at least on the side of France." By saying the treaties are not broken, the French ministers could not be regarded as intending to say that they had not been in many instances violated, as they had both demanded and yielded to a compensation, as proper for such violations.

The Minister of Exterior Relations, (Talleyrand,) in a letter of August 28, 1798, says: "Therefore, it never thought of making war against them, nor exciting civil commotions among them; and every contrary supposition is an insult to common sense."

On the part of the United States, it is well known that she always professed and determined to maintain a neutral position. In the instructions to our envoys, 22d October, 1799, it is said, this conduct of the French Republic would have well justified an immediate declaration of war on the part of the United States; but, desirous of maintaining peace, and still willing to leave open the door of reconciliation with France, the United States contented themselves with preparation for defence and measures calculated to protect their commerce."

The American ministers, in a letter dated 20th August, 1800, speaking of the act of Congress annulling the treaties, say, if it "had amounted to a cause of war, yet as the wisdom of France reconciled it to peace, its application, on the principle of war, to the extinguishment of claims, would be inexplicable." Many other documents might be adduced to prove the positions which have been taken, but I forbear, my object being only to exhibit sufficient to show the relations of the two nations, and the manner in which these claims were dis-

charged. Does it become the United States now to allege that these claims should not be paid by her, for other and different reasons than those which France used to avoid compensation? France never seriously maintained that the claims were extinguished by war; and how can the United States now introduce such a defence?

TUESDAY, December 23.

Lafayette.

Mr. CLAY, from the joint committee, appointed at the last session of Congress, on the subject of the oration contemplated to be delivered commemorative of the life and character of General Lafayette, made a report thereon, concluding with the following joint resolution:

Resolved by the Senate and House of Representatives, That Wednesday, the 31st instant, be the time assigned for the delivery of the oration by JOHN QUINCY ADAMS, before the two Houses of Congress, on the life and character of General Lafayette;

That the two Houses shall be called to order by their respective presiding officers at the usual hour, and the journal of the preceding day shall be read, but all legislative business shall be suspended on that day;

That the oration shall be delivered at half-past twelve o'clock, in the hall of the House of Representatives;

That the President of the United States and the heads of the several Departments, the French minister and members of the French legation, all other foreign ministers at the seat of Government, and the members of their respective legations, be invited to attend on that occasion by the chairman of the joint committee;

That the President of the United States, the heads of the several Departments, the French minister and members of the French legation, the other foreign ministers at the seat of Government, and the members of their respective legations, and JOHN QUINCY ADAMS, be requested to assemble at half-past twelve o'clock, P. M., in the Senate Chamber, and that they, with the Senate, shall be attended by the joint committee to the hall of the House of Representatives;

That the galleries of the House, under the direction of its officers, shall be open on that day for the accommodation of such citizens as may think proper to attend.

Mr. C., in continuation, observed that a similar report would that morning be made in the other House; and that, as the resolution under which the committee had acted originated there, it was not deemed necessary to proceed further until after some action was had in that House. He moved, therefore, that the whole subject be for the present laid on the table; which motion was adopted.

WEDNESDAY, December 24.

Colonel Leitenedorfer.

The bill for the relief of Colonel John Eugene Leitenedorfer coming up as in Committee of the Whole, and the bill having been read—

Mr. BENTON requested the Secretary of the Senate to read the report.

[Here follows the report, the substance of which will appear in the remarks which accompanied it.]

The reading being finished, Mr. BENTON proceeded to call to the recollection of the Senate some historical facts which illustrated the case of the petitioner, and showed his ample claim to the relief which was now proposed to be granted to him.

The enterprise of General Eaton, he said, was authorized by the Government. His plan of co-operation with the naval attack on Tripoli by a military movement from the interior, received the sanction of Mr. Jefferson's administration, and he was directed to execute it. The first step in this plan was to find out and bring into its views, the exiled Bashaw, Hamet Caramalli, then a fugitive from his country, and wandering, it was not known where, in some part of Egypt. For this purpose General Eaton was carried to Alexandria in a national ship, and proceeding thence to Grand Cairo, there learned that Hamet was in Upper Egypt, in the camp of Elfi Bey, then at war with the Turks, and the Turkish troops occupying the intermediate country. It was evident that, without the instrumentality of a faithful agent, who could pass both among the Turks and Mamelukes, his enterprise was at an end. Colonel Leitensdorfer, then in Grand Cairo, and in the Turkish service, became that agent, succeeded in the perilous undertaking, and returned with Hamet to Alexandria. There an expedition, savoring more of romance than of history, was set on foot. About one hundred Christians, collected from the stragglers and adventurers of all nations; four or five hundred Moors and Arabs, a hundred camels to carry baggage and provisions, undertake to cross the desert of Lybia, six hundred miles, to dethrone the Bashaw of Tripoli, restore the rightful heir, and release four hundred Americans from the chains and dungeons of Tripolitan slavery. They were fifty-six days in the desert, suffering every thing incident to such a journey, and such a mixture of nations and religions. Twenty-five days they were without meat; fifteen without bread; often without water, and sometimes drinking it from cisterns from which the bodies of murdered men had first to be hauled out. Almost every day the Arabs mutinied; sometimes for more pay, sometimes for rations; always with threats to the Christians, who were constantly standing to their arms against their associates. At the end of nearly two months they arrive at Derne, capture it, augment their forces to twelve or fifteen hundred men, defeat the Bashaw's troops in the field, and have every prospect of marching as conquerors upon Tripoli. At this juncture, (18th of June, 1805,) the United States frigate *Constellation* anchors before Derne, and every heart beats high with the prospect of the promised naval co-operation, and the immediate march upon Tripoli. On the contrary, she came from Tripoli, brought news of the treaty of peace and amity just signed by Mr. Lear with the reigning Bashaw,

and sent for General Eaton to come on board immediately, with his Christian followers, the exiled Bashaw, and his principal officers, in conformity to the third article of the treaty, which bound the United States to withdraw their forces immediately from Derne, and to give no aid to the rebel subjects of the Bashaw at that place. This was a thunderbolt to General Eaton; but he had no time for complaints. To escape was the difficulty; to extricate the Christians and chiefs from their deserted associates, was as perilous as indispensable, and was effected by stratagem, under cover of the night, and by the aid of the unfortunate Hamet. Mr. B. here read an extract of a despatch from General Eaton to Commodore Rodgers, which showed the difficulty and peril of this operation.

Mr. B. continued: A massacre was understood to have taken place the next day among the deserted followers of Hamet, and the revolted inhabitants of Derne, who had not saved themselves by flying, during the night, to the mountains and deserts. Hamet and his retinue lost every thing; tents, baggage, horses, which were turned loose as they dismounted, on the seashore.

Hamet and his friends, Mr. B. said, were carried to Syracuse, whence he addressed a pathetic appeal to the people of the United States.

This affecting appeal, said Mr. B., was not lost upon Mr. Jefferson's administration. An act of Congress was immediately passed for the temporary relief of Hamet, and in terms that implied a determination to make him a permanent provision; but his death intercepted the intended boon, and Christian honor remained unvindicated to a Mussulman prince.

Mr. B. apologized for this slight digression on the subject of Hamet Caramalli, who seemed to him to have been a good man, tried in the desert by the Christians, and found true—unfortunate, and his misfortune doubled by his connection with Americans. He would proceed with the case of the petitioner. Dropped at Syracuse by the American frigate, penniless and a stranger there, he turned his eyes to America, and received from General Eaton the testimonial which was to be his title to the hospitality and justice of the American Government and people.

"SYRACUSE, July 15, 1805.

"I certify that Colonel Genié, of Leitensdorfer, has been seven months in the service of the United States of America, in capacity of inspector general and chief engineer, with the allied forces on the coast of Africa; passed the deserts of Lybia with them, and was extremely useful and active in the defences of Derne while in our hands: for which he merits the respect and protection of the citizens and Government of the United States.

"WILLIAM EATON,

"United States navy agent of the several Barbary Regencies, and late commander-in-chief of the forces at Derne.

"Countersigned: GEORGE DYSON,

"United States navy agent, Syracuse."

DECEMBER, 1834.]

Colonel Leitensdorfer.

[SENATE.]

But Colonel Leitensdorfer had a son in the Tyrol, the country of his nativity, and it was his intention to bring that son to America. In attempting to reach him, he encountered new misfortunes. At Velona, in Dalmatia, he was recognized by the Turks, seized, and made a slave. Escaping on board an English schooner, and totally destitute, he entered as a non-commissioned officer in Count Froberg's foreign regiment at Malta. At the end of six months he obtained his discharge, couched in terms of peculiar respect and honor, which Mr. B. read to the Senate. Returning to Sicily, he embarked on board an imperial vessel to sail for America. Here a new misfortune overtook him. The Austrian vessel was captured by a French privateer, and himself again stripped of every thing. Finally, by the assistance of Mr. Appleton, the United States consul at Leghorn, he was enabled to reach the country on which, for four years, he had fixed his eyes and his hopes. Arrived here, his first object was to find General Eaton, who received him as a brother in arms and misfortune, and by whose biographer he is thus mentioned:

"In December, 1809, he was visited by Leitensdorfer, or Eugene, the man whom he sent to Upper Egypt in search of the ex-Bashaw, and who acted as a colonel in the battle of Derne. No man ever appeared to be more gratified than General Eaton by this unexpected visit. Leitensdorfer tarried several days, then took his departure for the City of Washington, having first received from Eaton certificates of his unrewarded services, and recommendations to General Bradley, of the Senate, and other members of Congress, to enable him to substantiate and obtain his dues."

At Washington Colonel Leitensdorfer became a petitioner to Congress, and at the end of two years obtained the pittance which is mentioned in his petition, namely, three hundred and twenty acres of land, for his perilous enterprise in drawing Hamet Caramalli from the Mameluke camp in Upper Egypt, which land was to be located west of the Mississippi, where no land office was opened for seven years, afterwards; and the pay of a captain of infantry, without emoluments, for the seven months which he served with General Eaton; the very act which paid him as a captain, reciting his true rank of adjutant and inspector general.

The land warrant which he had obtained, and which was to be located west of the Mississippi, turned his face towards the Territory of Missouri, where he married, became a cultivator, father of a family, and, for twenty-two years, a model of labor, of industry, and of irreproachable propriety of conduct. His mode of cultivation is strictly European; garden, orchard, vineyard, bees; every thing the best of its kind, and selling in the market of St. Louis, with the same hands that raised them, the fruits of his daily labor.

Mr. B. said he had confined himself to that part of the petitioner's history which was neces-

sary to make out his title to the relief which he prayed; but what he had related was the most inconsiderable portion of his eventful life. Educated for the priesthood, he betook himself to arms at the age of fifteen, and was cadet of hussars at the siege of Belgrade under Marshal Laudohn. At the breaking out of the wars of the French revolution, he served under Marshal Clairfait, in the Low Countries; afterwards under the Archduke Charles on the retreat of Moreau. Then he served in Italy under Alvinzi, Wurmsur, and Melas. Forced to quit the Austrian service, for a duel with a brother officer, he ran for four years a career of adventure, embracing Europe, Asia, and Africa, almost rivalling, in reality, the fabulous inventions of the Arabian Nights. A peddler of watches in Switzerland, a Capuchin friar in Sicily, a pilgrim at Jerusalem and at Mecca; the keeper of a café in Alexandria; a traveller in Egypt, Nubia, and Abyssinia; a Turkish dervish at Bagdad; a physician at Trebizond; his various fortune brought him to Constantinople, where he took service in the Turkish army destined to Egypt to reduce the Mamelukes, and arrived at Grand Cairo in 1804. At this point his history connects itself with that of General Eaton and the expedition to Derne, and is known to the Senate.

Mr. B. added that, for nearly twenty years, he had personally known the petitioner, and never knew a more exemplary citizen. Reproach had never been coupled with his name. He had the respect of every gentleman of intelligence, and was able to add to the information of all; for he spoke ten languages, and was familiar with the great events which had convulsed Europe, Asia, and Africa, for twenty years of their most eventful history. His pride is now to live *en philosophe*, as he calls it, working for his family and educating his children. But he wants, what he thinks is due to him, the six hundred and forty acres of land which the House of Representatives voted to him in 1811, for bringing off Hamet Caramalli at the double risk of his life, and which the Senate reduced to three hundred and twenty acres; and the pay and emoluments of colonel and adjutant general, which was his real rank in our service, instead of the pay, without emoluments, of captain of infantry, which he was not. And then a pension for the remainder of his life.

Mr. POINDEXTER objected to the bill, and inquired whether General Eaton had ever received land for his services at Derne.

Mr. BENTON believed that General Eaton had not received any land from the United States. He deemed him a meritorious and injured man; and if his heirs should apply to Congress, he would view their application as standing on the same foot with the grant to General Lafayette, and on a better foot than stood the grant to the Polish exiles, for both of which he had voted.

Mr. BENTON, on the suggestion of Mr. PRESTON, and several Senators, moved to strike out the pension clause, which was done.

SENATE.]

Oration of Mr. Adams.

[JANUARY, 1835.]

The bill was ordered to be engrossed for a third reading.

TUESDAY, December 30.

Relations with France.

A Message was received from the President of the United States, communicating a report from the Secretary of State, and the papers relating to the refusal of the French Government to make provision for the execution of the treaty of July, 1831, between the United States and France. The Message was in response to the resolution submitted by Mr. CLAY and adopted some days ago.

Mr. MANGUM moved that the papers be referred to the Committee on Foreign Relations, and that they be printed.

Mr. CALHOUN expressed a wish that the motion to print might include the debates of the French Chambers upon the subject of the treaty, and the letter of Mr. Rives, which was supposed to have caused some difficulty on the subject of the appropriation. He wished that a full and complete view of the whole subject might be laid before the nation.

Mr. MANGUM said there were also two or three other important letters which it was necessary to have printed; he would, however, confine his motion now only to the reference, and withdraw the motion to print.

Mr. CALHOUN also withdrew his motion to print the debates, and expressed a hope that the honorable member (Mr. MANGUM) would attend to it at the proper time.

The communication and documents were then referred.

WEDNESDAY, December 31.

The Senate did not sit to-day, being engaged in attending the delivery of the oration before the two Houses of Congress by JOHN QUINCY ADAMS, on the life and character of General Lafayette, agreeably to a joint resolution.

TUESDAY, January 6, 1835.

French Relations.

Mr. CLAY, from the Committee on Foreign Relations, to which had been referred that part of the President's message, appertaining to our relations with France, made a report, which concluded by a resolution, "That it is inexpedient at this time to pass any law vesting in the President authority for making reprisals upon French property, in the contingency of provision not being made for paying to the United States the indemnity stipulated by the treaty of 1831, during the present session of the French Chambers."

Mr. CLAY said that he should propose to make this report and resolution the special order for as early a day as might be agreeable

to the Senate. He would say this day week. He then moved that the report be made the special order for this day week, and printed.

The motion was agreed to, and 20,000 extra copies ordered.

Executive Patronage.

The following resolution, offered yesterday by Mr. CALHOUN, was taken up and adopted:

Resolved, That a select committee be appointed to inquire into the extent of executive patronage; the circumstances which have contributed to its great increase of late; the expediency and practicability of reducing the same, and the means of such reduction; and that they have leave to report by bill or otherwise.

On motion of Mr. CALHOUN, it was ordered that the committee consist of six.

Mr. C. wished that the committee might consist of two members from each of the political parties; for it is well known, said Mr. C., that there are different political interests in the Senate. That when he considered the extent of executive patronage and influence, and its important effect upon our future prospects, he wished to go into its consideration free from all prejudices, and to give it an impartial consideration. He wished the committee might be immediately appointed.

And so the Senate proceeded to ballot for the committee, when Messrs. CALHOUN, SOUTHARD, BIBB, WEBSTER, BENTON, and KING of Georgia, were elected.

WEDNESDAY, January 7.

Oration of Mr. Adams.

Mr. CLAY rose to perform a duty which was assigned to him, as chairman of the joint committee on the subject of honoring the memory of Lafayette. He stated that the thanks of the two Houses had been presented to Mr. ADAMS, by order of Congress, his reply to which had been received. The committee had also addressed a letter to Mr. ADAMS, requesting a copy of his oration for publication. The reply to that letter, assenting to the wish of Congress thus communicated, was now before him; and he should move to lay these papers on the table. It was now his duty, and he felt some embarrassment in its performance, to move the printing of the oration. If he were to be guided by his opinion of the great talents of the orator, and the extraordinary merit of the oration, he felt that he should be unable to specify any number. But it was necessary to fix on some number. As the House had ordered 50,000 copies, it would hardly be necessary for the Senate to order as many. In the proportion of the Senate to the House of Representatives, he thought that about 10,000 would be the proper number. He would, therefore, propose that number, although he should be entirely satisfied with a greater or less number,

JANUARY, 1835.]

French Spoliations.

[SENATE.]

as the Senate might determine. He concluded with moving that 10,000 copies be printed.

The motion was agreed to.

THURSDAY, JANUARY 8.

French Spoliations.

The bill making compensation for French spoliations prior to 1800, being under consideration—

Mr. WRIGHT, of New York, said: He understood the friends of this bill to put its merits upon the single and distinct ground that the Government of the United States had released France from the payment of the claims for a consideration, passing directly to the benefit of our Government, and fully equal in value to the claims themselves. Mr. W. said he should argue the several questions presented, upon the supposition that this was the extent to which the friends of the bill had gone, or were disposed to go, in claiming a liability on the part of the United States to pay the claimants; and, thus understood, he was ready to proceed to an examination of the strength of this position.

His first duty, then, was to examine the relations existing between France and the United States prior to the commencement of the disturbances out of which these claims have arisen; and the discharge of this duty would compel a dry and uninteresting reference to the several treaties which, at that period, governed those relations.

The seventeenth article of the treaty of amity and commerce of the 6th February, 1778, was the first of these references, and that article was in the following words:

[The article read.]

This article, Mr. W. said, would be found to be one of the most material of all the stipulations between the two nations, in an examination of the diplomatic correspondence during the whole period of the disturbances, from the breaking out of the war between France and England, in 1793, until the treaty of the 30th September, 1800. The privileges claimed by France, and the exclusions she insisted on as applicable to the other belligerent powers, were fruitful sources of complaint on both sides, and constituted many material points of disagreement between the two nations through this entire interval. What these claims were on the part of France, and how far they were admitted by the United States, and how far controverted, will, Mr. W. said, be more properly considered in another part of the argument. As connected, however, with this branch of the relations, he thought it necessary to refer to the twenty-second article of the same treaty, which was in the following words:

[The article read.]

Mr. W. said he now passed to a different

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branch of the relations between the two countries, as established by this treaty of amity and commerce, which was the reciprocal right of either to carry on a free trade with the enemies of the other, restricted only by the stipulations of the same treaty in relation to articles to be considered contraband of war. This reciprocal right is defined in the twenty-third article of the treaty, which is in the words following:

[The article read.]

The restrictions as to articles to be held between the two nations as contraband of war, Mr. W. said were to be found in the twenty-fourth article of the same treaty of amity and commerce, and were as follows:

[The article read.]

Mr. W. said, this closed his references to this treaty, with the remark, which he wished carefully borne in mind, that the accepted public law was greatly departed from in this last article. Provisions, in their broadest sense, materials for ships, rigging for ships, and indeed almost all the articles of trade mentioned in the long exception in the article of the treaty, were articles contraband of war by the law of nations. This article, therefore, placed our commerce with France upon a footing widely different, in case of war between France and any third power, from the rules which would regulate that commerce with the other belligerent with whom we might not have a similar commercial treaty. Such was its effect as compared with our relations with England, with which power we had no commercial treaty whatever, but depended upon the law of nations as our commercial rule and standard of intercourse.

Mr. W. said he now passed to the treaty of alliance between France and the United States, of the same date with the treaty of amity and commerce before referred to, and his first reference was to the 11th article of this latter treaty. It was in the following words:

[The article read.]

This article, Mr. W. said, was the most important reference he had made, or could make, so far as the claims provided for by this bill were concerned; because he understood the friends of the bill to derive the principal consideration of the United States which created their liability to pay the claims, from the guarantee on the part of the United States contained in it. The Senate would see that the article was a mutual and reciprocal guarantee, 1st. On the part of the United States to France, of her possessions in America; and 2d. On the part of France to the United States, of their "liberty, sovereignty, and independence, absolute and unlimited, as well in matters of Government as commerce, and also their possessions," &c.; and that the respective guarantees were "forever." It would, by and by,

appear in what manner this guarantee on the part of our Government was claimed to be the foundation for this pecuniary responsibility for millions, but at present he must complete his references to the treaties which formed the law between the two nations, and the rule of their relations to and with each other. He had but one more article to read, and that was important only as it went to define the one last cited. This was the 12th article of the treaty of alliance, and was as follows:

[The article read.]

These, said Mr. W., are the treaty stipulations between France and the United States, existing at the time of the commencement of the disturbances between the two countries, which gave rise to the claims now the subject of consideration, and which seem to bear most materially upon the points in issue. There were other provisions in the treaties between the two Governments more or less applicable to the present discussion, but, in the course he had marked out for himself, a reference to them was not indispensable, and he was not disposed to occupy the time or weary the patience of the Senate with more of these dry documentary quotations than he found absolutely essential to a full and clear understanding of the points he proposed to examine.

Mr. W. said he was now ready to present the origin of the claims which formed the subject of the bill. The war between France and England broke out, according to his recollection, late in the year 1792, or early in the year 1793, and the United States resolved upon preserving the same neutral position between those belligerents, which they had assumed at the commencement of the war between France and certain other European Powers. This neutrality on the part of the United States seemed to be acceptable to the then French Republic, and her minister in the United States and her diplomatic agents at home were free and distinct in their expressions to this effect.

Still that Republic made broad claims under the 17th article of the treaty of amity and commerce before quoted, and her minister here assumed the right to purchase ships, arm them as privateers in our ports, commission officers for them, enlist our own citizens to man them, and, thus prepared, to send them from our ports to cruise against English vessels upon our coast. Many prizes were made, which were brought into our ports, submitted to the admiralty jurisdiction conferred by the French Republic upon her consuls in the United States, condemned, and the captured vessels and cargoes exposed for sale in our markets. These practices were immediately and earnestly complained of by the British Government as violations of the neutrality which our Government had declared, and which we assumed to maintain in regard to all the

belligerents, as favors granted to one of the belligerents not demandable of right under our treaties with France, and as wholly inconsistent, according to the rules of international law, with our continuance as a neutral power. Our Government so far yielded to these complaints as to prohibit the French from fitting out, arming, equipping, or commissioning privateers in our ports, and from enlisting our citizens to bear arms under the French flag.

This decision of the rights of France, under the treaty of amity and commerce, produced warm remonstrances from her minister in the United States, but was finally ostensibly acquiesced in by the Republic, although constant complaints of evasions and violations of the rule continued to harass our Government, and to occupy the attention of the respective diplomatists.

The exclusive privilege of our ports for her armed vessels, privateers, and their prizes, granted to France by the treaty of amity and commerce, as has before been seen, excited the jealousy of England, and she was not slow in sending a portion of her vast navy to line our coast and block up our ports and harbors. The insolence of power induced some of her armed vessels to enter our ports, and to remain, in violation of our treaty with France, though not by the consent of our Government, or when we had the power to enforce the treaty by their ejection. These incidents, however, did not fail to form the subject of new charges from the French ministers, of bad faith on our part, of partiality to England to the prejudice of our old and faithful ally, of permitted violations of the treaties, and of an inefficiency and want of zeal in the performance of our duties as neutrals. To give point to these complaints, some few instances occurred in which British vessels brought their prizes into our ports, whether in all cases under those casualties of stress of weather, or the dangers of the sea, which rendered the act in conformity with the treaties and the law of nations or not, is not perhaps very certain or very material, inasmuch as the spirit of complaint seems to have taken possession of the French negotiators, and these acts gave colorable ground to their remonstrances.

Cotemporaneously with these grounds of misunderstanding, and these collisions of interest between the belligerents, and between the interest of either of them and the preservation of our neutrality, the French began to discover the disadvantages to them, and the great advantages to the British, of the different rules which governed the commerce between the two nations and the United States. The rule between us and France was the commercial treaty of which the articles above quoted form a part, and the rule between us and Great Britain was that laid down by the law of nations. Mr. W. said he would detain the Senate to point out but two of the differences

JANUARY, 1885.]

French Spoiliations prior to 1800.

[SENATE.]

between these rules of commerce and intercourse, because upon these two principally depended the difficulties which followed. The first was, that, by the treaty between us and France, "free ships shall also give a freedom to the goods; and every thing shall be deemed to be free and exempt which shall be found on board the ships belonging to the subjects of either of the confederates, although the whole lading, or any part thereof, should appertain to the enemy of either, contraband goods being always excepted;" while the law of nations, which was the rule between us and England, made the goods of an enemy a lawful prize, although found in the vessel of a friend. Hence it followed that French property on board of an American vessel was subject to capture by British cruisers without indignity to our flag, or a violation to international law, while British property on board of an American vessel could not be captured by a French vessel without an insult to the flag of the United States, and a direct violation of the twenty-third article of the treaty of amity and commerce between us and France, before referred to.

Mr. W. said, the second instance of disadvantage to France which he proposed to mention, was the great difference between the articles made contraband of war by the twenty-fourth article of the treaty of amity and commerce, before read to the Senate, and by the law of nations. By the treaty, provisions of all kinds, ship timber, ship tackle, (guns only excepted,) and a large list of other articles of trade and commerce, were declared not to be contraband of war, while the same articles are expressly made contraband by the law of nations. Hence an American vessel, clearing for a French port with a cargo of provisions or ship stores, was lawful prize to a British cruiser, as, by the law of nations, carrying articles contraband of war to an enemy, while the same vessel clearing for a British port with the same cargo, could not be captured by a French vessel, because the treaty declared that the articles composing the cargo should not be contraband as between the United States and France. Mr. W. said the Senate could see, at a single glance, how eminently these two advantages on the part of Great Britain were calculated to turn our commerce to her ports, where, if the treaty between us and France was observed, our vessels could go in perfect safety, while, laden with provisions, our only considerable export, and destined for a French port, they were liable to capture, as carrying to an enemy contraband articles. Upon their return, too, they were equally out of danger from French cruisers, as, by the treaty, free ships made free the goods on board; while, if they cleared from a port in France with a French cargo, they were lawful prize to the British, upon the principle of the law of nations, that the goods of an enemy are

lawful prize, even when found in the vessel of a friend.

Both nations were in constant and urgent want of provisions from the United States; and this double advantage to England of having her ports open and free to our vessels, and of possessing the right to capture those bound to French ports, exasperated the French Republic beyond endurance. Her ministers remonstrated with our Government, controverted our construction of British rights, again renewed the accusations of partiality, and finally threw off the obligations of the treaty, and, by a solemn decree of their authorities at home, established the rule which governed the practice of the British cruisers. France, assuming to believe that the United States permitted the neutrality of her flag to be violated by the British without resistance, declared that she would treat the flag of all neutral vessels as that flag should permit itself to be treated by the other belligerents. This opened our commerce to the almost indiscriminate plunder and depredation of all the powers at war, and but for the want of the provisions of the United States, which was too strongly felt both in England and France not to govern, in a great degree, the policy of the two nations, it would seem probable, from the documentary history of the period, that it must have been swept from the ocean. Impelled by this want, however, the British adopted the rule, at an early day, that the provisions captured, although in strict legal sense forfeited, as being by the law of nations contraband, should not be confiscated, but carried into English ports, and paid for at the market price of the same provisions at the port of their destination. The same want compelled the French, when they came to the conclusion to lay aside the obligations of the treaty, and to govern themselves, not by solemn compacts with friendly powers, but by the standards of wrong adopted by their enemies, to adopt also the same rule, and instead of confiscating the cargo as contraband of war, if provisions, to decree a compensation graduated by the market value at the port of destination.

Such, said Mr. W., is a succinct view of the disturbances between France and the United States, and between France and Great Britain, out of which grew what are now called the French claims for spoiliations upon our commerce prior to the 30th of September, 1800. Other subjects of difference might have had a remote influence; but, Mr. W. said, he believed it would be admitted by all that those he had named were the principal, and might be assumed as having given rise to the commercial irregularities in which the claims commenced. This state of things, without material change, continued until the year 1798, when our Government adopted a course of measures intended to suspend our intercourse with France until she should be brought to respect

our rights. These measures were persevered in by the United States up to September, 1800, and were terminated by the treaty between the two nations of the 30th of that month. Here, too, terminated claims which now occupy the attention of the Senate.

As it was the object of the claimants to show a liability on the part of our Government to pay their claims and the bill under discussion assumed that liability, and provided, in part at least, for the payment, Mr. W. said it became his duty to inquire what the Government had done to obtain indemnity for these claimants from France, and to see whether negligence on its part had furnished equitable or legal ground for the institution of this large claim upon the national treasury. The period of time covered by the claims, as he understood the subject, was from the breaking out of the war between France and England, in 1793, to the signing of the treaty between France and the United States in September, 1800; and he would consider the efforts the Government had made to obtain indemnity.

1st. From 1793 to 1798.

2d. From 1798 to the treaty of the 30th September, 1800.

During the first period, Mr. W. said, these efforts were confined to negotiation, and he felt safe in the assertion that, during no equal period in the history of our Government, could there be found such untiring and unremitting exertions to obtain justice for citizens who had been injured in their properties by the unlawful acts of a foreign power. Any one who would read the mass of diplomatic correspondence between this Government and France, from 1793 to 1798, and who would mark the frequent and extraordinary missions, bearing constantly in mind that the recovery of these claims was the only ground upon our part for the whole negotiation, would find it difficult to say where negligence towards the rights and interest of its citizens is imputable to the Government of the United States during this period. He was not aware that such an imputation had been or would be made; but sure, he was that it could not be made with justice, or sustained by the facts upon record. No liability, therefore, equitable or legal, had been incurred up to the year 1798.

And if, said Mr. W., negligence is not imputable prior to 1798, and no liability had then been incurred, how is it for the second period, from 1798 to 1800? The efforts of the former period were negotiation, constant, earnest, extraordinary negotiation. What were they for the latter period? His answer was, war, actual, open war; and he believed the statute book of the United States would justify him in the position. He was well aware that this point would be strenuously controverted, because the friends of the bill would admit that, if a state of war between the two countries did exist, it put an end to claims existing prior to the war, and not provided for in the treaty

of peace, as well as to all pretence for claims to indemnity for injuries to our commerce committed by our enemy in time of war. Mr. W. said he had found the evidences so numerous to establish his position that a state of actual war did exist, that he had been quite at a loss from what portion of the testimony of record to make his selections so as to establish the fact beyond reasonable dispute, and at the same time not to weary the Senate by tedious references to laws and documents. He had finally concluded to confine himself exclusively to the statute book, as the highest possible evidence, as in his judgment entirely conclusive, and as being susceptible of an arrangement and condensation which would convey to the Senate the whole material evidence in a satisfactory manner, and in less compass than the proofs to be drawn from any other source. He had, therefore, made a very brief abstract of a few statutes which he would read in his place:

By an act of the 28th May, 1793, Congress authorized the capture of all armed vessels of France which had committed depredations upon our commerce, or which should be found hovering upon our coast for the purpose of committing such depredations.

By an act of the 18th of June, 1793, only sixteen days after the passage of the former act, Congress prohibited all vessels of the United States from visiting any of the ports of France or her dependencies, under the penalty of forfeiture of vessel and cargo, required every vessel clearing for a foreign port to give bonds (the owner, or factor and master) in the amount of the vessel and cargo, and good sureties in half that amount, conditioned that the vessel to which the clearance was to be granted would not, voluntarily, visit any port of France or her dependencies; and prohibited all vessels of France, armed or unarmed, or owned, fitted, hired, or employed by any person resident within the territory of the French Republic or its dependencies, or sailing or coming therefrom, from entering or remaining in any port of the United States, unless permitted by the President by special passport, to be granted by him in each case.

By an act of the 25th June, 1793, only twelve days after the passage of the last-mentioned act, Congress authorized the merchant vessels of the United States to arm, and to defend themselves against any search, restraint, or seizure, by vessels sailing under French colors, to repel force by force, to capture any French vessel attempting a search, restraint, or seizure, and to recapture any American merchant vessel which had been captured by the French.

Here, Mr. W. said, he felt constrained to make a remark upon the character of these several acts of Congress, and to call the attention of the Senate to their peculiar adaptation to the measures which speedily followed in future acts of the national Legislature. The

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first, authorizing the capture of French armed vessels, was peculiarly calculated to put in martial preparation all the navy which the United States then possessed, and to spread it upon our coast. The second, establishing a perfect non-intercourse with France, was sure to call home our merchant vessels from that country and her dependencies, to confine within our own ports those vessels intended for commerce with France, and thus to withdraw from the reach of the French cruisers a large portion of the ships and property of our citizens. The third, authorizing our merchantmen to arm, was the greatest inducement the Government could give to its citizens to arm our whole commercial marine, and was sure to put in warlike preparation as great a portion of our merchant vessels as a desire of self-defence, patriotism, or cupidity, would arm. Could measures more eminently calculated to prepare the country for a state of war have been devised or adopted? Was this the intention of those measures on the part of the Government, and was that intention carried out into action? Mr. W. said he would let the subsequent acts of the Congress of the United States answer; and for that purpose he would proceed to read from his abstract of those acts.

By an act of the 28th June, 1798, three days after the passage of the act last referred to, Congress authorized the forfeiture and condemnation of all French vessels captured in pursuance of the acts before mentioned, and provided for the distribution of the prize money, and for the confinement and support, at the expense of the United States, of prisoners taken in the captured vessels.

By an act of the 7th July, 1798, nine days after the passage of the last-recited act, Congress declared "that the United States are of right freed and exonerated from the stipulations of the treaties and of the consular convention heretofore concluded between the United States and France; and that the same shall not hereforth be regarded as legally obligatory on the Government or citizens of the United States."

By an act of the 9th July, 1798, two days after the passage of the act declaring void the treaties, Congress authorized the capture, by the public armed vessels of the United States, of all armed French vessels, whether within the jurisdictional limits of the United States or upon the high seas, their condemnation as prizes, their sale, and the distribution of the prize money; empowered the President to grant commissions to private armed vessels to make the same captures, and with the same rights and powers, as public armed vessels; and provided for the safe keeping and support of the prisoners taken, at the expense of the United States.

By an act of the 9th February, 1799, Congress continued the non-intercourse between

the United States and France for one year from the 3d of March, 1799.

By an act of the 28th February, 1799, Congress provided for an exchange of prisoners with France, or authorized the President, at his discretion, to send to the dominions of France, without an exchange, such prisoners as might remain in the power of the United States.

By an act of the 3d March, 1799, Congress directed the President, in case any citizens of the United States taken on board vessels belonging to any of the powers at war with France, by French vessels, should be put to death, corporeally punished, or unreasonably imprisoned, to retaliate promptly and fully upon any French prisoners in the power of the United States.

By an act of the 27th February, 1800, Congress again continued the non-intercourse between us and France for one year from the 3d of March, 1800.

Mr. W. said he had now closed the references he proposed to make to the laws of Congress, to prove that war, actual war, existed between the United States and France from July, 1798, until that war was terminated by the treaty of the 30th of September, 1800. He had, he hoped, before shown that the measures of Congress, up to the passage of the act of Congress of the 25th of June, 1798, and including that act, were appropriate measures preparatory to a state of war; and he had now shown a total suspension of the peaceable relations between the two Governments by the declaration of Congress, that the treaties should no longer be considered binding and obligatory upon our Government or its citizens. What, then, but war could be inferred from an indiscriminate direction to our public armed vessels, put in a state of preparation by preparatory acts, to capture all armed French vessels upon the high seas, and from granting commissions to our whole commercial marine, also armed by the operation of previous acts of Congress, authorizing them to make the same captures, with regulations applicable to both, for the condemnation of the prizes, the distribution of the prize money, and the detention, support, and exchange of the prisoners taken in the captured vessels? Will any man, said Mr. W., call this a state of peace?

[Here Mr. WALKER, chairman of the select committee which reported the bill, answered "Certainly."]

Mr. W. proceeded. He said he was not deeply read in the treaties upon national law, and he should never dispute with that learned gentleman upon the technical definitions of peace and war as given in the books; but his appeal was to the plain sense of every Senator and every citizen of the country. Would either call that state of things which he had described, and which he had shown to exist from the highest of all evidence, the laws of Congress alone, peace? It was a state of open and undis-

guised hostility, of force opposed to force, of war upon the ocean, as far as our Government were in command of the means to carry on the maritime war. If it was peace, he should like to be informed by the friends of the bill what would be war. This was violence and bloodshed, the power of the one nation against the power of the other, reciprocally exhibited by physical force.

Couple with this the withdrawal by France of her minister from this Government, and her refusal to receive the American commission, consisting of Messrs. Marshall, Pinckney, and Gorry, and the consequent suspension of negotiations between the two Governments during the period referred to, and Mr. W. said if the facts and the national records did not show a state of war, he was at a loss to know what state of things between nations should be called war.

If, however, the Senate should think him wrong in this conclusion, and that the claims were not utterly barred by war, he trusted the facts disclosed in this part of his argument would be considered sufficient at least to protect the faith of the Government in the discharge of its whole duty to its citizens; and that after it had carried on these two years of war, or, if not war, of actual force and actual fighting, in which the blood of its citizens had been shed, and their lives sacrificed to an unknown extent, for the single and sole purpose of enforcing these claims of individuals, the imputation of negligence, and hence of liability to pay the claims, would not be urged as growing out of this portion of the conduct of the Government.

Mr. W. said he now came to consider the treaty of the 30th September, 1800, and the reasons which appeared plainly to his mind to have induced the American negotiators to place that negotiation upon the basis, not of an existing war, but of a continued peace. That such was assumed to be the basis of the negotiation, he believed to be true, and this fact, and this fact only, so far as he had heard the arguments of the friends of the bill, was depended upon to prove that there had been no war. He had attempted to show that war in fact had existed, and been carried on for two years; and if he could now show that the inducement, on the part of the American ministers, to place the negotiation which was to put an end to the existing hostilities upon a peace basis, arose from no considerations of a national or political character, and from no ideas of consistency with the existing state of facts, but solely from a desire still to save, as far as might be in their power, the interests of these claimants, he should submit with great confidence that it did not lay in the mouths of the same claimants to turn round and claim this implied admission of an absence of war, thus made by the agents of the Government out of kindness to them, and an excess of regard for their interests, as the basis of a liability to pay the damages which they had sustained, and which this diplomatic untruth, like all the

previous steps of the Government, failed to recover for them. What, then, Mr. President, said Mr. W., was the subject on our part, of the constant and laborious negotiations carried on between the two Governments from 1793 to 1798? The claims. What, on our part, was the object of the disturbances from 1798 to 1800—of the non-intercourse—of the sending into service our navy, and arming our merchant vessels—of our raising troops and providing armies on the land—of the expenditure of the millions taken from the treasury and added to our public debt, to equip and sustain these fleets and armies? The claims. Why were our citizens sent to capture the French, to spill their blood, and lay down their lives upon the high seas? To recover the claims. These were the whole matter. We had no other demand upon France, and, upon our part, no other cause of difference with her.

What public, or national, or political object had we in the negotiation of 1800, which led to the treaty of the 30th September of that year? None, but to put an end to the existing hostilities, and to restore relations of peace and friendship. These could have been as well secured by negotiating upon a war as a peace basis. Indeed, as there were in our former treaties stipulations which we did not want to revive, a negotiation upon the basis of existing war was preferable, so far as the interests of the Government were concerned, because that would put all questions, growing out of former treaties between the parties, forever at rest. Still our negotiators consented to put the negotiation upon the basis of continued peace, and why? Because the adoption of a basis of existing war would have barred effectually and forever all classes of the claims. This, Mr. W. said, was the only possible assignable reason for the course pursued by the American negotiators; it was the only reason growing out of the existing facts, or out of the interests, public or private, involved in the difficulties between the two nations. He therefore felt himself fully warranted in the conclusion, that the American ministers preferred and adopted a peace basis for the negotiation which resulted in the treaty of the 30th of September, 1800, solely from a wish, as far as they might be able, to save the interests of our citizens holding claims against France.

Did they, Mr. President, said Mr. W., succeed by this artifice in benefiting the citizens who had sustained injuries? He would let the treaty speak for itself. The following are extracts from the 4th and 5th articles:

"ART. 4. Property captured, and not yet definitively condemned, or which may be captured before the exchange of ratifications, (contraband goods destined to an enemy's port excepted,) shall be mutually restored on the following proof of ownership:"

[Here follows the form of proof, when the article proceeds:]

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"This article shall take effect from the date of the signature of the present convention. And if, from the date of the said signature, any property shall be condemned contrary to the intent of the said convention, before the knowledge of this stipulation shall be obtained, the property so condemned shall, without delay, be restored or paid for."

"ART. 5. The debts contracted for by one of the two nations with individuals of the other, or by individuals of the one with individuals of the other, shall be paid, or the payment may be prosecuted in the same manner as if there had been no misunderstanding between the two States. But this clause shall not extend to indemnities claimed on account of captures or confiscations."

Here, Mr. W. said, was evidence from the treaty itself, that, by assuming a peace basis for the negotiation, the property of our merchants captured and not condemned was saved to them, and that certain classes of claimants against the French Government were provided for, and their rights expressly reserved. So much, therefore, was gained by our negotiators by a departure from the facts, and negotiating to put an end to existing hostilities upon the basis of a continued peace. Was it, then, generous or just to permit these merchants, because our ministers did not succeed in saving all they claimed, to set up this implied admission of continued peace as the foundation of a liability against their own Government to pay what was not recovered from France? He could not so consider it, and he felt sure the country would never consent to so responsible an implication from an act of excessive kindness. Mr. W. said he must not be understood as admitting that all was not, by the effect of this treaty, recovered from France, which she ever recognized to be due, or ever intended to pay. On the contrary, his best impression was, from what he had been able to learn of the claims, that the treaty of Louisiana provided for the payment of all the claims which France ever admitted, ever intended to pay, or which there was the most remote hope of recovering in any way whatever. He should, in as subsequent part of his remarks, have occasion to examine that treaty, the claims which were paid under it, and to compare the claims paid with those urged before the treaty of September, 1800.

Mr. W. said he now came to the consideration of the liability of the United States to these claimants, in case it shall be determined by the Senate that a war between France and the United States had not existed to bar all ground of claim either against France or the United States. He understood the claimants to put this liability upon the assertion that the Government of the United States had released their claims against France by the treaty of the 80th of September, 1800, and that the release was made for a full and valuable consideration passing to the United States, which in law and equity made it their duty to pay the claims. The consideration passing to the United States is alleged to be their release from the onerous

obligations imposed upon them by the treaties of amity and commerce and alliance of 1778, and the consular convention of 1778, and especially and principally by the seventeenth article of the treaty of amity and commerce, in relation to armed vessels, privateers, and prizes, and by the eleventh article of the treaty of alliance containing the mutual guarantees.

The release, Mr. W. said, was claimed to have been made in the striking out, by the Senate of the United States, of the second article of the treaty of 80th September, 1800, as that article was originally inserted and agreed upon by the respective negotiators of the two powers, and as it stood at the time the treaty was signed. To cause this point to be clearly understood, it would be necessary for him to trouble the Senate with a history of the ratification of this treaty. The second article, as inserted by the negotiators, and as standing at the time of the signing of the treaty, was in the following words:

"ART. 2. The ministers plenipotentiary of the two powers not being able to agree, at present, respecting the treaty of alliance of 6th February, 1778, the treaty of amity and commerce of the same date, and the convention of 14th of November, 1788, nor upon the indemnities mutually due or claimed, the parties will negotiate further upon these subjects at a convenient time; and, until they may have agreed upon these points, the said treaties and convention shall have no operation, and the relations of the two countries shall be regulated as follows: "

The residue of the treaty, Mr. W. said, was a substantial copy of the former treaties of amity and commerce, and alliance between the two nations, with such modifications as were desirable to both, and as experience under the former treaties had shown to be for the mutual interests of both.

This second article was submitted to the Senate by the President as a part of the treaty, as by the Constitution of the United States the President was bound to do, to the end that the treaty might be properly ratified on the part of the United States, the French Government having previously adopted and ratified it as it was signed by the respective negotiators, the second article being then in the form given above. The Senate refused to advise and consent to this article, and expunged it from the treaty, inserting in its place the following:

"It is agreed that the present convention shall be in force for the term of eight years from the time of the exchange of the ratifications."

In this shape, and with this modification, the treaty was duly ratified by the President of the United States, and returned to the French Government, for its dissent or concurrence. Bonaparte, then First Consul, concurred in the modification made by the Senate, in the following language, and upon the condition therein expressed:

"The Government of the United States having added to its ratification that the convention should be in force for the space of eight years, and having omitted the second article, the Government of the French Republic consents to accept, ratify, and confirm the above convention, with the addition, purporting that the convention shall be in force for the space of eight years, and with the retrenchment of the second article: *Provided*, That by this retrenchment, the two States renounce the respective pretensions which are the object of the said article."

This ratification by the French Republic, thus qualified, was returned to the United States, and the treaty, with the respective conditional ratifications, was again submitted by the President of the United States to the Senate. That body "resolved that they considered the said convention as fully ratified, and returned the same to the President for the usual promulgation;" whereupon he completed the ratification in the usual forms and by the usual publication.

This, Mr. W. said, was the documentary history of this treaty and of its ratification, and here was the release of their claims relied upon by the claimants under the bill before the Senate. They contend that this second article of the treaty, as originally inserted by the negotiators, reserved their claims for future negotiation, and also reserved the subjects of disagreement under the treaties of amity and commerce, and of alliance, of 1778, and the consular convention of 1788; that the seventeenth article of the treaty of amity and commerce, and the eleventh article of the treaty of alliance, were particularly onerous upon the United States; that, to discharge the Government from the onerous obligations imposed upon it in these two articles of the respective treaties, the Senate was induced to expunge the second article of the treaty of the 30th of September above referred to, and, by consequence, to expunge the reservation of their claims as subjects of future negotiation between the two nations; that, in thus obtaining a discharge from the onerous obligations of these treaties, and especially of the two articles above designated, the United States was benefitted to an amount beyond the whole value of the claims discharged, and that this benefit was the inducement to the expunging of the second article of the treaty, with a full knowledge that the act did discharge the claims, and create a legal and equitable obligation on the part of the Government to pay them.

These, Mr. W. said, he understood to be the assumptions of the claimants, and this their course of reasoning to arrive at the conclusion that the United States were liable to them for the amount of their claims. He must here raise a preliminary question, which he had satisfied himself would show these assumptions of the claimants to be wholly without foundation, so far as the idea of benefit to the United States was supposed to be derived from expunging this second article of the treaty of 1800. What, he must be permitted to ask, would have been the

liability of the United States under the "onerous obligations" referred to, in case the Senate had ratified the treaty, retaining this second article? The binding force of the treaties of amity and commerce, and of alliance, and of the consular convention, was released, and the treaties and convention were themselves suspended by the very article in question; and the subjects of disagreement growing out of them were merely made matters of future negotiation, "at a convenient time." What was the value or the burden of such an obligation upon the United States? for this was the only obligation from which our Government was released by striking out the article. The value, Mr. W. said, was the value of the privilege, being at perfect liberty, in the premises, of assenting to or dissenting from a bad bargain, in a matter of negotiation between ourselves and a foreign power. This was the consideration passing to the United States, and, so far as he was able to view the subject, this was all the consideration the Government had received, if it be granted, (which he must by no means be understood to admit,) that the striking out of the article was a release of the claims, and that such release was intended as a consideration for the benefits to accrue to the Government from the act.

Mr. W. said he felt bound to dwell, for a moment, upon this point. What was the value of an obligation to negotiate "at a convenient time?" Was it any thing to be valued? The "convenient time" might never arrive, or, if it did arrive, and negotiations were opened, were not the Government as much at liberty as in any other case of negotiation, to refuse propositions which were deemed disadvantageous to itself? The treaties were suspended, and could not be revived without the consent of the United States; and, of consequence, the "onerous obligations" comprised in certain articles of these treaties were also suspended until the same consent should revive them. Could he, then, be mistaken in the conclusion, that, if the treaty of 1800 had been ratified with the second article forming a part of it, as originally agreed by the negotiators, the United States would have been as effectually released from the onerous obligations of the former treaties, until those obligations should again be put in force by their consent, as they were released when that article was stricken out, and the treaty ratified without it? In short, could he be mistaken in the position that all the inducement, of a national character, to expunge that article from the treaty, was to get rid of an obligation to negotiate "at a convenient time?" And could it be possible that such an inducement would have led the Senate of the United States, understanding this consequence, to impose upon the Government a liability to the amount of \$5,000,000? He could not adopt so absurd a supposition; and he felt himself compelled to say that this view of the action of the Government in the ratification of the treaty of 1800, in his mind, put an end to the pretence that the striking out of this

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article relieved the United States from obligations so onerous as to form a valuable consideration for the payments provided for in this bill. He could not view the obligation released—a mere obligation to negotiate—as onerous at all, or as forming any consideration whatever for a pecuniary liability, much less for a liability for millions.

Mr. W. said he now proposed to consider whether the effect of expunging the second article of the treaty of 1800 was to release any claim of value—any claim which France had ever acknowledged, or over intended to pay. He had before shown, by extracts from the fourth and fifth articles of the treaty of 1800, that certain classes of claims were saved by that treaty as it was ratified. The claims so reserved and provided for were paid in pursuance of provisions contained in the treaty between France and the United States, of the 30th of April, 1803; and to determine what claims were thus paid, a reference to some of the articles of that treaty was necessary. The purchase of Louisiana was made by the United States for the sum of 80,000,000 of francs, 60,000,000 of which were to be paid into the French treasury, and the remaining 20,000,000 were to be applied to the payment of these claims. Three separate treaties were made between the parties, bearing all the same date, the first providing for the cession of the territory, the second for the payment of the 60,000,000 of francs to the French treasury, and the third for the adjustment and payment of the claims.

Mr. W. said the references proposed were to the last-named treaty, and were the following:

"ART. 1. The debts due by France to citizens of the United States, contracted before the 8th of Vendemiaire, ninth year of the French Republic, (30th of September, 1800,) shall be paid according to the following regulations, with interest at six per cent., to commence from the period when the accounts and vouchers were presented to the French Government.

"ART. 2. The debts provided for by the preceding article are those whose result is comprised in the conjectural note annexed to the present convention, and which, with the interest, cannot exceed the sum of twenty millions of francs. The claims comprised in the said note, which fall within the exceptions of the following articles, shall not be admitted to the benefit of this provision."

"ART. 4. It is expressly agreed that the preceding articles shall comprehend no debts but such as are due to citizens of the United States, who have been and are yet creditors of France, for supplies, for embargoes, and prizes made at sea, in which the appeal has been properly lodged within the time mentioned in the said convention of the 8th Vendemiaire, ninth year, (30th September, 1800.)

"ART. 5. The preceding articles shall apply only, 1st, to captures of which the council of prizes shall have ordered restitution, it being well understood that the claimant cannot have recourse to the United States otherwise than he might have had to the Government of the French Republic, and only in case of the insufficiency of the captors; 2d, the

debts mentioned in the said fifth article of the convention, contracted before the 8th Vendemiaire, and 9, (30th September, 1800,) the payment of which has been heretofore claimed of the actual Government of France, and for which the creditors have a right to the protection of the United States; the said fifth article does not comprehend prizes whose condemnation has been or shall be confirmed; it is the express intention of the contracting parties not to extend the benefit of the present convention to reclamations of American citizens, who shall have established houses of commerce in France, England, or other countries than the United States, in partnership with foreigners, and who by that reason and the nature of their commerce, ought to be regarded as domiciliated in the places where such houses exist. All agreements and bargains concerning merchandise, which shall not be the property of American citizens, are equally excepted from the benefit of the said convention, saving, however, to such persons their claims in like manner as if this treaty had not been made."

From these provisions of the treaty, Mr. W. said it would appear that the claims to be paid were of three descriptions, to wit:

1. Claims for supplies.

2. Claims for embargoes.

3. Claims for captures made at sea, of a description defined in the last clause of the 4th and the first clause of the 5th article.

How far these claims embraced all which France ever acknowledged, or ever intended to pay, Mr. W. said he was unable to say, as the time allowed him to examine the case had not permitted him to look sufficiently into the documents to make up his mind with precision upon this point. He had found, in a report made to the Senate on the 14th of January, 1831, in favor of this bill by the honorable Mr. Livingston, then a Senator from the State of Louisiana, the following classification of the French claims, as insisted on at a period before the making of the treaty of 1800, to wit:

"1. From the capture and detention of about fifty vessels.

"2. The detention, for a year, of eighty other vessels, under the Bordeaux embargo.

"3. The non-payment of supplies to the West India islands, and to continental France.

"4. For depredations committed on our commerce in the West Indies."

Mr. W. said the comparison of the two classifications of claims would show, at a single view, that Nos. 2 and 3 in Mr. Livingston's list were provided for by the treaty of 1803, from which he had read. Whether any, and if any, what portions of Nos. 1 and 4 in Mr. Livingston's list were embraced in No. 3 of the provisions of the treaty as he had numbered them, he was unable to say; but this much he could say, that he had found nothing to satisfy his mind that parts of both those classes of claims were not so included, and therefore provided for and paid under the treaty; nor had he been able to find any thing to show that this treaty of 1803 did not provide for and pay all the claims which France ever acknowledged or

ever intended to pay. He was, therefore, unprepared to admit, and did not admit, that any thing of value to any class of individual claimants was released by expunging the second original article from the treaty of the 30th September, 1800. On the contrary, he was strongly impressed with the belief that the adjustment of claims provided for in the treaty of 1803 had gone to the whole extent to which the French Government had, at any period of the negotiations, intended to go.

Mr. W. said this impression was greatly strengthened by the circumstance that the claims under the Bordeaux embargo were expressly provided for in this treaty, while he could see nothing in the treaty of 1800 which seemed to him to authorize the supposition that this class of claims was more clearly embraced within the reservations in that treaty than any class which had been admitted by the French Government.

Another fact, Mr. W. said, was material to this subject, and should be borne carefully in mind by every Senator. It was, that not a cent was paid by France even upon the claims reserved and admitted by the treaty of 1800, until the sale of Louisiana to the United States, for a sum greater by thirty millions of francs than that for which the French minister was instructed to sell it. Yes, Mr. President, said Mr. W., the only payment yet made upon any portion of these claims has been virtually made by the United States; for it has been made out of the consideration money paid for Louisiana, after paying into the French treasury ten millions of francs beyond the price France herself placed upon the Territory. It is a singular fact that the French negotiator was instructed to make the sale for fifty millions if he could get no more; and when he found that, by yielding twenty millions to pay the claims, he could get eighty millions for the Territory, and thus put ten millions more into the treasury of his nation than she had instructed him to ask for the whole, he yielded to the claims and closed the treaty. It was safe to say that, but for this speculation in the sale of Louisiana, not one dollar would have been paid upon the claims to this day. All our subsequent negotiations with France of a similar character, and our present relations with that country, growing out of private claims, justify this position. What, then, would have been the value of claims, if such fairly existed, which were not acknowledged and provided for by the treaty of 1800, but were left for future negotiation "at a convenient time?" Would they have been worth the five millions of dollars you propose to appropriate by this bill? Would they have been worth further negotiation? He thought they would not.

Mr. W. said he would avail himself of this occasion when speaking of the treaty of Louisiana and of its connection with these claims, to explain a mistake into which he had fallen, and which he found from conversation with several gentlemen, who had been for some

years members of Congress, had been common to them and to himself. The mistake to which he alluded was, the supposition that the claimants under this bill put their case upon the assumption that their claims had constituted part of the consideration for which Louisiana had been ceded to the United States; and that the consideration they contended the Government had received, and upon which its liability rested, was the cession of that Territory for a less sum, in money, than was considered to be its value, on account of the release of the French Government from those private claims. He had rested under this misapprehension until the opening of the present debate, and until he commenced an examination of the case. He then found that it was an entire misapprehension; that the United States had paid in money, for Louisiana, thirty millions of francs beyond the price which France had set upon it; that the claimants under this bill did not rest their claims at all upon this basis, and that the friends of the bill in the Senate did not pretend to derive the liability of the Government from this source. Mr. W. said he was induced to make this explanation in justice to himself, and because there might be some person within the hearing of his voice who might still be under the same misapprehension.

He had now, Mr. W. said, attempted to establish the following propositions, viz.:

1. That a state of actual war, by which he meant a state of actual hostilities and of force, and an interruption of all diplomatic or friendly intercourse between the United States and France, had existed from the time of the passage of the acts of the 7th and 9th July, 1798, before referred to, until the sending of the negotiators, Ellsworth, Davie, and Murray, in 1800, to make a treaty which put an end to the hostilities existing, upon the best terms that could be obtained; and that the treaty of the 30th of September, 1800, concluded by these negotiators, was, in fact, and so far as private claims were concerned, to be considered as a treaty of peace, and to conclude all such claims, not reserved by it, as finally ratified by the two powers.
2. That the treaty of amity and commerce, and the treaty of alliance of 1778, as well as the consular convention of 1788, were suspended by the 2d article of the treaty of 1800, and from that time became mere matters for negotiation between the parties at a convenient time; that, therefore, the desire to get rid of these treaties, and of any "onerous obligations" contained in them, was only the desire to get rid of an obligation to negotiate "at a convenient time;" and that such a consideration could not have induced the Senate of the United States to expunge that article from the treaty, if thereby that body had supposed it was imposing upon the country a liability to pay to its citizens the sum of five millions of dollars—a sum much larger than France had asked, in money, for a full discharge from the "onerous obligations" relied upon.

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8. That the treaty of 1800 reserved and provided for certain portions of the claims; that payment, according to such reservations, was made under the treaty of 1808; and that it is at least doubtful whether the payment thus made did not cover all the claims ever admitted or ever intended to be paid by France; for which reason the expunging of the second article of the treaty of 1800 by the Senate of the United States, in all probability, released nothing which ever had, or which was ever likely to have, value.

Mr. W. said, if he had been successful in establishing either of these positions, there was an end of the claims, and, by consequence, a defeat of the bill.

Mr. KING, of Georgia, said: What was the proposition, by the establishment of which the advocates of the bill sought to enforce upon the Senate the propriety of its passage? If he understood it, it was this: that France, on the 30th of September, 1800, was indebted to citizens of the United States (the claimants) at least five millions of dollars. That the United States were at the same time under treaty stipulations to France, onerous to them, and valuable to France; and that the United States, having charge of the claims of their citizens, released these claims to France, in consideration of a release of their own treaty stipulations to that nation. Hence it was contended that the United States are liable to their own citizens for their claims on France, upon the same principle that an agent is liable to his principal if he appropriates the effects of the latter to his own use. The doctrine was sound enough, if the proposition were established. But, in prosecuting an inquiry into the truth of the proposition, he should inquire, and, if possible, ascertain—

1st. Whether, in point of fact, the Government of France was, according to the existing rules of national law, indebted to the claimants five millions, or any other sum, on the 30th September, 1800?

2d. Whether, in point of fact, the United States were, at the same date, bound by treaty stipulations, onerous to them, and valuable to France, which would afford a consideration for the release of the claims?

And it might not be unimportant to inquire, in the third place, whether, if these claims once existed and were released by the acts of our Government in its regular administration, any responsibility should attach to the Government for obeying the necessary exigencies of State policy?

Mr. K. returned to the first inquiry. Was France, indebted to the claimants on the 30th September, 1800? That France had committed spoiliations which made her liable at one time to claimants, was not disputed on either side, but insisted on by both. The claims, he said, arose as well by a reckless violation of the laws of nations as by repeated and sometimes admitted infractions of the treaty of commerce between the two countries,

dated the 6th of February, 1778. Several of the articles of this treaty, connected with these claims had just been read by his friend from New York, (Mr. WRIGHT.) The article most material he (Mr. K.) read. It is as follows:

"ART. 23d. It shall be lawful for all and singular the subjects of the Most Christian King, and the citizens, people, and inhabitants of the said United States, to sail with their ships with all manner of liberty and security, no distinction being made who are the proprietors of the merchandises laden thereon, from any port to the places of those who now are or hereafter shall be at enmity with the Most Christian King or the United States. It shall likewise be lawful for the subjects and inhabitants aforesaid to sail with the ships and merchandises aforementioned, and to trade with the same liberty and security, from the places, ports, and harbors of those who are enemies of both or either party, without any opposition or disturbance whatsoever, not only directly from the places of the enemy aforementioned to neutral places, but also from one place belonging to an enemy to another place belonging to an enemy, whether they be under the jurisdiction of the same prince, or under several. And it is hereby stipulated that free ships shall give a freedom to goods, and that every thing shall be deemed to be free and exempt which shall be found on board the ships belonging to the subjects of either of the confederates, although the whole lading, or any part thereof, should appertain to the enemies of either, contraband goods being always excepted. It is also agreed, in like manner, that the same liberty be extended to persons who are on board a free ship, with this effect, that, although they be enemies of both or either party, they are not to be taken out of that free ship, unless they are soldiers, and in actual service of the enemies."

Another article in the treaty provided that a sea letter of a particular form, specified in the article, should, on being exhibited, determine the neutral or friendly character of the vessel. This article was violated in the most flagrant manner, by an unexpected decree, requiring what they called a "rôle d'équipage," which took hundreds by surprise, who had prepared themselves with a letter in the form prescribed by the treaty. In short, France first violated the treaty, as seemed on all hands admitted, and continued her depredations from 1793 till the treaty of 1800. Nor was our Government remiss in attention to the claims of its citizens. Every effort was made to recover indemnity for them. Envoy after envoy was sent to the French court to negotiate on this subject; but they were subjected to the most degrading conditions as the price of the privilege of negotiating, and treated with a contempt only equalled by that which was paid to our flag; and at last virtually kicked out of the country. These indignities were submitted to until—nay, long after—forbearance ceased to be a virtue; and, finding negotiation hopeless, we determined to resort to force.

Mr. K. insisted that the spoiliations which were the subject of the bill had caused a war between the two countries—a war, to be sure,

of limited duration, but still a public war, by which the claims were extinguished. The acts of a hostile nature passed by Congress in 1798 had all just been read or referred to by his friend from New York, the most material of which were those authorizing the capture of the armed vessels of France. On the 28th day of May, in that year, Congress passed an act authorizing the armed vessels of the United States to capture any armed vessel of France which had committed depredations on our commerce, or which might be found cruising about our coasts for that purpose. This act has been called defensive, barely, in its character. Admit it to be so, said Mr. K., and what is to be said of the act of 9th July, 1798? This act authorizes the capture of French armed vessels anywhere on the high seas. In other words, it authorized a general maritime war with France.

And did these acts, inquired Mr. K., end in idle ceremony? Not at all, sir. The President, as authorized, issued his proclamation to carry them into effect; and from that time the armed forces of the two nations understood perfectly well the hostile relations in which their respective nations stood to each other, and acted accordingly. When their ships met they instantly cleared for action; some of the most desperate conflicts ensued—their masts were cut off by the dexterity of our gunners—their hulls were shattered into useless floating wrecks—their decks were drenched in the blood of their seamen—conquered, captured, carried into port, confiscated, sold, and distributed as prizes. And yet, gentlemen say there was no war in this! The Senator from New York, who has just taken his seat, in referring to this state of things, asked if it could be called peace? "Certainly," he was answered from the seat of the Senator from Massachusetts. "Certainly," we may call things by what names we please, but, in nature, they are not changed by the names we arbitrarily give them. We may call a declaration of war a proclamation of neutrality. We may call a challenge to mortal conflict, a love-letter or a billet-doux. Or a bloody war may be called, as in this case, "a mere misunderstanding." Yet these things would remain unchanged in their natures and consequences by the names assigned to them.

But, inquired Mr. K., why is it that those hostilities, carried on by the authority of the Government, did not constitute war? He knew not what reason the Senator from Massachusetts, (Mr. WEBSTER,) who was to conclude the discussion, might assign; but other Senators had assigned no other reason than that "the negotiators said there had been no war." They might as well have "said" that there never was a flood. They might as well have "said" that the battle of Waterloo was a friendly salutation between the contending armies. Their sayings could not change war into peace. But the truth was, said Mr. K., the French negotiators, when the claims were first presented, "said,"

there "had been war," and that any indifferent nation would say so," and that, consequently, "no indemnities could be claimed."

It makes but little difference, however, said Mr. K., what these gentlemen said in the politeness of their diplomacy, striving to forget the past, and mutually seeking the advantage in reviving an extinguished treaty. Mr. Vattel said, when he wrote his book on the law of nations, that "war is that state in which we prosecute our rights by force." Public war being that prosecuted by national authority. Were not these acts of hostility by national authority, and in the prosecution of our rights by force? Certainly they were. In fact, it was war, in a very unqualified sense. It was the forcible collision of the armed forces of the two nations, by authority of each. The claimants, then, on the 30th September, 1800, had no claim which we could, with technical right, insist on, and France never surrendered this right to disclaim them, or offered to surrender it, unless upon terms she thought advantageous to her.

But it was said that if these claims were extinguished by war they were revived by negotiation. Mr. K. inquired how they could be revived by mere negotiation? The envoys could not revive an extinguished claim by merely insisting upon it, or taking it into notice in negotiating a treaty. They might as well have undertaken to revive the edict of Nantes. It was a matter they could not control without the approbation of the ratifying authority. It was of no consequence upon what principle they negotiated, but we should inquire upon what principle the Senate ratified. But it is said they were recognized as a subject of negotiation in the second article of the treaty. Very well, sir, and did the Senate ratify the second article? Not at all. Their first act, when the treaty was presented, was to put the sponge upon it. They said, in effect, let the second article be blotted from the instrument. Could the Senate have disclaimed, more emphatically, the notice which had been taken of the subject? The negotiators had taken the subject into consideration, and it was necessary to dispose of it. They therefore said, in the second article, that, "not being able to agree" upon the subject, they postponed it to a more convenient time. The second article expunged by the Senate, the treaty was sent back to Napoleon, and what did he do? Why, he agreed to the retrenchment of the 3d article, "provided"—provided what, sir!—that the respective nations would pay the claims of their citizens, respectively? Not at all, sir. He never thought of such a thing. For France had never paid its citizens for the claims they were at the same time setting up against us. But he agreed to the retrenchment of the second article, provided each party renounced the respective "pretensions which were the object of the second article." "Pretensions" was a very slighting term to use in reference to a

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valid debt. The pretensions in his mind, most likely, were the claims of mutual guaranty, and the privilege of neutrals; but whatever they were, this was only another mode for disposing of them as not sustainable. So we see, sir, that the ratifying power acted on the principle that the claims were extinguished by hostilities, whatever the negotiators may have said or done in the matter.

Mr. K. said that, after the second article was expunged, the matter stood precisely in the predicament in which it would have stood if the claims had not been noticed in the treaty. And he supposed it would hardly be contended that if national hostilities had existed, and peace restored by treaty, without noticing claims which were the cause of hostilities, these claims would not be extinguished.

But it is said our envoys alleged that this class of claims was due, and insisted on its payment. Certainly they did, sir, and on many things else they did not obtain. He understood his friend from Maine, (Mr. SHEPLEY,) who dwelt on this circumstance, had much of the confidence of his constituents as a lawyer, as well as a politician. If so, he would ask his friend if he had not often insisted strongly that thousands were due to his client when he knew there was not due him one cent? Doubtless he had, and did only his duty in doing so. The Government and envoys acted on a similar principle. They were representing American citizens, and they did the best they could for them; but not being able to recover indemnities from France, it was a little hard their very diligence should be used as a reason for charging the United States with the claim.

But it is further said that the French also acknowledged these claims. Yes, sir, said Mr. K., and how did they acknowledge them? They acknowledged them, always coupled with a condition that would at the same time extinguish them. They would negotiate for the payment of these claims, provided we would revive an extinguished treaty, and allow them to put their own price on its supposed obligations. What kind of acknowledgment was this? and they certainly never made any other. You, sir, said Mr. K., make claim on me for ten millions of dollars. Very well; I may safely answer, "your account is a false one, but I will acknowledge it, if you will permit me to produce a false receipt for it." "Your debt is barred or extinguished; but I have claims of greater amount against you of a similar character, and I have no objections to settle, if I can bring you in debt." Various offers were made on both sides, but they were all, when closely examined, of this nature; for they were always "to renew" the treaties, which implied their previous extinction; and these offers of renewal were always accompanied with modifications and conditions, though advantageous to the proposer. The claims, then, Mr. K. insisted, had been extinguished by the hostile relations between the two countries, and had never been

revived either by negotiation or acknowledgment.

Mr. K. then went into the second subject of inquiry. Were the United States, on the 30th of September, 1800, bound by treaty stipulations to the Government of France, onerous to the one and valuable to the other? Mr. K. thought not. The conduct of France had perhaps sufficiently discharged the United States from all the obligations of the treaties. But, to put the matter beyond doubt, in a judicial point of view, Congress, on the 7th of July, 1798, passed an act declaratory on the subject, by which (after reciting in the preamble as a justification of the act the frequent violations of the treaties by France) it was enacted, "That the United States are of right freed and exonerated from the stipulations of the treaties and of the consular convention heretofore concluded between the United States and France, and that the same shall not henceforth be considered as legally obligatory on the Government or citizens of the United States."

One would suppose, said Mr. K., that this act would settle the matter. But, to his utter astonishment, this right in the United States as an independent party to the treaty had been denied. It was said the consent of both parties must first be obtained. There might be some modification of the right as between the United States and its citizens claiming the benefit of a treaty; or the right of Congress to repeal a treaty by ordinary legislation, without reasons, might be questioned. But this was a judicial act of an independent sovereign power, containing the reasons for the decision, which reasons all acknowledged to be perfectly true. And when gentlemen were so general in their denial of the power of Congress on this subject as to include the act in question, he scarcely knew how to treat such a position. What an extraordinary position we should be placed in. Having treaties of peace and commerce with all the world, any nation with whom we had made treaties might violate them at pleasure, drive our commerce from the ocean, and even bring war to the Capitol, and the United States could not move against the offender without breaking the faith of treaties. This would be a new principle to introduce into the law of nations.

From the time of Grotius up to the present time, it had, he thought, been acknowledged a universal principle of national law; that in cases of compact between independent nations, there being no common judge, each party had the right to judge for itself, "as well of the infraction as of the mode and measure of redress." This principle has been much quoted of late to sustain the rights of the States of the Union to judge of an infraction of the constitution. He never could see the application of this principle to the rights of the States in their relation to the Federal Government, but when applied to the United States and France, two nations entirely independent in all their exterior relations, the principle was plain, and the application easy.

Mr. K. said he had hastily turned to one authority on national law, which he believed spoke the sentiments of all elementary writers on the subject. [Mr. K. then read from Vattel, book 11, ch. 18, p. 218.]

"Treaties contain promises that are perfect and reciprocal. If one of the parties fail in his engagements, the other may compel him to fulfil them. A perfect promise confers a right to do so. But if the latter has no other expedient but that of arms to force his ally to the performance of his promises, he will sometimes find it more eligible to cancel the promises on his own side, also, and dissolve the treaty. He has undoubtedly a right to do this, since his promises were made only on condition that the ally should, on his part, execute every thing which he had engaged to perform. The party, therefore, who is offended or impaired in those particulars which constitute the basis of the treaty, is at liberty to choose the alternative of either compelling a faithless ally to fulfil his engagements, or of declaring the treaty dissolved by his violation of it. On such an occasion, prudence and wise policy will point out the line of conduct to be pursued."

It cannot be necessary, said Mr. K., to insist that the United States possess the same rights on this subject with other independent nations; and he presumed it would not be denied that the reasons set forth in the act for dissolving the treaty are perfectly true, and constitute a legal justification of the measure. It might safely be submitted to the Senate as an original question, whether France had not, by her violation of the treaty, justified its nullification by us? The author just quoted, said Mr. K., on another page, cites Grotius to prove that "every article of a treaty carries with it a condition, by the non-performance of which the treaty is wholly cancelled." I ask Senators, then, said Mr. K., whether France did not first violate the treaty? That she did so, is the very first position established by them. And here the advocates of the bill found themselves in this strange predicament: That their first position to establish a claim against France proved at the same time that the United States were not responsible for it. Mr. K. would not dwell longer on this branch of the subject. He considered the treaty clearly cancelled, as well by the acts of France as by its nullification by the United States for sufficient causes. He therefore concluded that, on the 80th of September, 1800, the United States were not bound by treaty stipulations to France, and therefore could have received no consideration for the release of the claims in question.

But it is said that the treaty stipulations were valuable at the date referred to, because the American negotiators offered for them 80,000,000 francs; and one would be led to think, said Mr. K., from the confidence with which gentlemen refer to this offer, that they had some thing almost equivalent to a promissory note of the Government for at least this amount. He had already remarked that these offers in

negotiation determined nothing unless reduced to treaty and ratified. But when we examine this "offer," what kind of an offer was it? It was an offer which, if accepted by the French Government, would have brought them eight or nine millions of dollars in debt! It is said we offered five millions of francs for a release from the stipulations of the 11th article of the treaty of 1778, which guaranteed to France her West India islands; and three millions for the privilege of her privateers secured by the 17th article. The better to understand the value of this offer, said Mr. K., let us look to the instructions which preceded it, and with an evident reference to which it was made. These instructions say: "On the part of the United States, instead of troops or ships of war, it would be convenient to stipulate for a moderate sum of money, or quantity of provisions, at the option of France. The provisions to be delivered at our ports in any future defensive war," &c. It was the opinion of our cabinet at that time, that the guarantee in the 11th article only extended to a defensive war, and no treaty renewing it on any other than this construction would have been ratified by the United States. This offer, then, was to renew the mutual guarantee, but at the same time to settle its construction and its value. For the privileges under the 17th article we should have paid three millions, for those privileges were needed by us in our commercial relations with England. But the five millions were contingent upon a future defensive war. This part of the arrangement was as valuable to one party as the other, and in fact the contingency had not yet happened, which would have justified the claim. So then we see this valuable offer, said Mr. K., was an offer of three millions of francs, certain, and five millions contingent, that we might receive fifty millions certain, by way of indemnities. Well might we propose to renew the treaties on such terms. It was not very surprising that France did not accept the generous offer.

Mr. K. said it only remained to inquire whether there was any just cause of complaint against the Government because the attitude it assumed towards France may have released these claims. To admit this would allow individuals to control the policy of nations. If these claims were so released, it was only one of those individual sacrifices constantly made to State policy, in the necessary operations of Government. We had done every thing that could be reasonably required to secure their claims. We had spent large sums in missions and negotiations before we resorted to hostile measures, which were, of course, attended with heavy expense. Perhaps, said Mr. K., if we were to enter into a strict account with these claimants, we have spent more money in pursuit of their claims than the amount at which they are estimated, without computing the blood of our citizens, which may be estimated beyond millions of treasure. It is for this, among other

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reasons, said Mr. K., that war always relinquishes the claims for which it is declared. The blood of a single citizen satisfies millions of debt.

The attitude which the United States assumed then was necessary to the permanent policy and honor of the country; and all private interests must yield to it. In fact, said Mr. K., it has been clearly shown by the Senator from New Hampshire, (Mr. HILL,) that their claims, under no circumstances, would ever have been worth one cent. It would be recollected that we did get the promise, in the treaty of 1800, of indemnity for all prizes not definitively condemned. Did Bonaparte pay these claims for which we held his bond in the treaty? Not at all, sir. Not a dollar of them would he pay to us; and we never should have got a dollar from him, even for these acknowledged indemnities, had not Louisiana been forced, as it were, to auction, to prevent it from falling into the hands of the English. And not even then, sir, if we had not been cheated out of the amount by French diplomacy, by which it was gratuitously paid by ourselves, and ten millions besides. Bonaparte told his minister to take fifty millions of francs. He obtained eighty, with the stipulation that twenty millions were to be deducted to satisfy indemnities under the treaty of 1800. Bonaparte was delighted at the bargain; but mark what he said to Marbois, his agent, when the treaty was reported to him. "I would that these twenty millions be paid into the treasury. Who authorized you to part with the money of the State!" He was reminded that he still would get ten millions more than he asked, besides satisfying the Americans. "Ah, 'tis true," said he, "the treaty does not leave one any thing to desire. Sixty millions for an occupation that would not, perhaps, last a day," &c. Is it likely, then, inquired Mr. K., that when he had uniformly refused to satisfy what he had solemnly promised to pay "for captures not definitively condemned," that he would have paid for captures every one of which had been condemned, and for which any treaty stipulation had been refused? Sir, said Mr. K., the claims were not worth a mill in the dollar, at any time. Bonaparte pay such claims? No, sir. He, with his drum-headed justice and gunpowder administration, robbed everybody and paid nobody. If these views be just, said Mr. K., however the claims may have been released, the claimants lost nothing, for France never would have paid any thing for these claims, every one of which had received the condemnation of her tribunals in some form or other, whether rightly or not. In the last treaty we had to exclude all cases condemned, however just our complaints of the proceedings under which the condemnations were made.

Mr. K. concluded, then, that France owed no part of these claims on the 30th September, 1800, which she ever would have paid, or that, in strictness, could be insisted on. That the United States, on the same date, were under no

treaty stipulation to France, a release from which would afford a consideration for the claims. Claims and treaties, he said, had been extinguished, and no act had ever been done by the treaty-making power in this country to revive them. These views he thought an entire answer to the claims.

As to the nature of these claims, said Mr. K., which had been already referred to, he must say they were not such as appealed strongly to our sympathies. There were few, it was said, in the hands of the original losers, and they were mostly in the hands of insurance companies and underwriters. These, said Mr. K., are the weakest of all possible claims. It was known that, in those days, profits were enormous, and increased by the risk, which was known to be great; and the risk and profit regulated the premiums, which were also excessively high. If, then, the loss should be returned, the insurer was enriched by high premiums, whilst he had the loss returned to him. This he thought a tolerably fair business for insurers. We are told, to be sure, of "widows and orphans," who await the tardy justice of Government. He thought it likely there might be some, and some very rich ones, too. The widows and orphans of the original losers, however, he expected, were few in number, and only thrust forward in the foreground of the picture, whilst rich insurers, underwriters, and speculators, in great numbers, lay back, concealed in its more remote and deepening shades.

Mr. K. said he had been unable to bring his mind to the support of this bill. It was but right, however, that he should confess, in conclusion, (although he could not say he was prejudiced,) he had a powerful weight of presumptive evidence to get rid of before he could look into details to get at the original merits of the claim. He said it might be safely assumed that no Government in the world was more just to the claims of its citizens than that of the United States; and if, at any time, a claim was not allowed when pressed upon it, the refusal was a strong circumstance against it. This claim had been before Congress for thirty-four years, and had not yet got through both houses of Congress. And during a portion of that period it was known that we were not looking out for ways and means to defray the expenses of Government, but actually looking out for ways and means to absorb an apprehended surplus. I would say, then, (said Mr. K.,) that, if this claim was refused by Government from 1800 to 1824, it might reasonably be put down as doubtful. If from 1824 to 1832, we might put it down as very doubtful; and if passed through the generous year of 1832 without being allowed, we might with much reason venture to consider it desperate, and unworthy the attention of any tribunal or Government. He had not, however, depended entirely upon these strong circumstances against the claims, but had listened attentively to the speeches for and against them, and had revived his recollection

of the most material historical facts upon which they rested, and his first unfavorable impressions were fully confirmed, and he should vote against the bill. Though he fully concurred in the sentiments of the Senator from South Carolina, that if, notwithstanding the age and amount of the claims, they were really just, and the honor of the Government were involved in withholding them, the appropriation should be made, if it took the last dollar in the treasury, and forced us even to make new contributions to satisfy it.

FRIDAY, JANUARY 9.

French Spoliations prior to 1800.

The Senate resumed the consideration of the bill making compensation for French spoliations prior to 1800.

MR. BENTON: The whole stress of the question lies in a few simple facts, which, if disembarassed from the confusion of terms and conditions, and viewed in their plain and true character, render it difficult not to arrive at a just and correct view of the case. The advocates of this measure have no other grounds to rest their case upon than an assumption of facts; they assume that the United States lie under binding and onerous stipulations to France; that the claims of this bill were recognized by France; and that the United States made herself responsible for these claims, instead of France; took them upon herself, and became bound to pay them, in consideration of getting rid of the burdens which weighed upon her. It is assumed that the claims were good when the United States abandoned them; and that the consideration, which it is pretended the United States received, was of a nature to make her fully responsible to the claimants, and to render it obligatory upon her to satisfy the claims.

The measure rests, sir, entirely upon these assumptions; but, sir, I shall show that they are nothing more than assumptions; that these claims were not recognized by France, and could not be, by the law of nations; they were good for nothing when they were made; they were good for nothing when we abandoned them. The United States owed nothing to France, and received no consideration whatever from her, to make us responsible for payment. What I here maintain, I shall proceed to prove, not by any artful chain of argument, but by plain and historical facts.

Let me ask, sir, on what grounds is it maintained that the United States received a valuable consideration for these claims? Under what onerous stipulations did she lie? in what did her debt consist, which it is alleged France gave up in payment for these claims? By the treaty of '78, the United States was bound to guarantee the French American possessions to France; and France, on her part, guaranteed to the United States her sovereignty and territory. In '93 the war between Great Britain and France broke out, and this rupture between those

nations immediately gave rise to the question how far this guarantee was obligatory upon the United States? Whether we were bound by it to protect France on the side of her American possessions against any hostile attack of Great Britain, and thus become involved as subalterns in a war in which we had no concern or interest whatever? Here, sir, we come to the point at once; for if it should appear that we were not bound by this guarantee to become parties to a distant European war, then, sir, it will be as evident, a decided result and conclusion, that we were under no obligation to France, we owed her no debt on account of this guarantee; and, plainly enough, it will follow, we received no valuable consideration for the claims of this bill, when France released us from an obligation which it will appear we never owed. Let us briefly see, sir, how the case stands.

Sir, France, to get rid of claims made by us, puts forward counter claims under this guarantee, proposing by such a diplomatic manoeuvre to get rid of our demand, the injustice of which she protested against. She succeeded, and both parties abandoned their claims. And is it now, sir, to be urged upon us that, on the grounds of this astute diplomacy, we actually received a valuable consideration for claims which were considered good for nothing? France met our claims, which were good for nothing, by a counter claim, which was good for nothing, and when we found ourselves thus encountered, we abandoned our previous claim, in order to be released from the counter one opposed to it. After this, is it, I would ask, a suitable return for our overwrought anxiety to obtain satisfaction for our citizens, that any one of them should, some thirty years after this, turn round upon us and say: "Now you have received a valuable consideration for our claims; now, then, you are bound to pay us!" But this is in fact, sir, the language of this bill. I unhesitatingly say that the guarantee, (a release from which is the pretended consideration by which the whole people of the United States are brought in debtors to a few insurance officers to the amount of millions,) this guarantee, sir, I affirm, was good for nothing. I speak on no less authority, and in no less a name, than that of the great Father of his Country, Washington himself, when I affirm that this guarantee imposed upon us no obligations towards France. How, then, shall we be persuaded that, in virtue of this guarantee, we are bound to pay the debts and make good the spoliations of France?

When the war broke out between Great Britain and France in 1793, Washington addressed to his cabinet a series of questions, inquiring their opinion on this very question, how far the treaty of guarantee of 1778 was obligatory upon the United States, intending to take their opinions as a guidance for his conduct in such a difficult situation. [Here the honorable Senator read extracts from Washington's queries to his cabinet, with some of the opinions themselves.]

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French Spoiliations prior to 1800.

[SENATE.]

In consequence of the opinions of his cabinet concurring with his own sentiments, President Washington issued a proclamation of neutrality, disregarding the guarantee, and proclaiming that we were not bound by any preceding treaties to defend American France against Great Britain. The wisdom of this measure is apparent. He wisely thought it was not prudent our infant republic should become absorbed in the vortex of European politics, and therefore, sir, not without long and mature deliberation how far this treaty of guarantee was obligatory upon us, he pronounced against it; and in so doing he pronounced against the very bill before us; for the bill has nothing to stand upon but this guarantee; it pretends that the United States is bound to pay for injuries inflicted by France, because of a release from a guarantee by which the great Washington himself solemnly pronounced we were not bound! What do we now behold, sir? We behold an array in this House, and on this floor, against the policy of Washington! They seek to undo his deed; they condemn his principles; they call in question the wisdom and justice of his wise and paternal counsels; they urge against him that the guarantee bound us, and what for? What is the motive of this opposition against his measures? Why, sir, that this bill may pass; and the people, the burden-bearing people, be made to pay away a few millions, only a few millions, sir, in consideration of obligations which, after mature deliberation, Washington pronounced not to lie upon us!

I think, sir, enough has been said to put to rest forever the question of our obligations under this guarantee. Whatever the claims may be, it must be evident to the common sense of every individual, that we are not and cannot be bound to pay them in the stead of France, because of a pretended release from a guarantee which did not bind us; I say did not bind us, because, to have observed it, would have led to our ruin and destruction, and it is a clear principle of the law of nations, that a treaty is not obligatory when it is impossible to observe it. But, sir, leaving the question whether we were made responsible for the debts of France, whether we were placed under an obligation to atone to our own citizens for injuries which a foreign power had committed; leaving this question as settled, (and I trust settled forever,) I come, sir, to consider the claims themselves, their justice and their validity. And here, sir, the principle of this bill will prove, on this head, as weak and untenable—nay, more—as outrageous to every idea of common sense, as it was on the former head. With what reason, I would ask, sir, can gentlemen press the American people to pay these claims, when it would be unreasonable to press France herself to pay them? If France, who committed the wrong, could not justly be called upon to atone for it, how in the world, sir, can the United States now be called upon for this money? In 1793, the treaty of peace with France was virtually abolished by various

acts of Congress authorizing hostilities, and by proclamation of the President to the same effect; it was abolished on account of its violation by France; on account of those depredations which this bill calls upon us to make good. By those very acts of Congress we sought satisfaction for these very claims; and, having done so, it was too late afterwards to seek fresh satisfaction by demanding indemnity. There was war, sir, as the gentleman from Georgia has clearly shown—war on account of these spoliations, and when we sought redress by acts of warfare, we precluded ourselves from the right of demanding redress by indemnity. We could not, therefore, justly urge these claims against France, and I therefore demand, sir, how can they be urged against us? What, sir, are the invincible arguments by which gentlemen establish the justice and validity of these claims? For, surely, before we consent to sweep away millions from the public treasury, we ought to hear at least some good reasons. Let me examine their good reasons. The argument, sir, to prove the validity of these claims, and that we are bound to pay them, is this: France acknowledged them, and the United States took them upon herself; that is, they were paid by way of offset, and the valuable consideration the United States received was a release from her pretended obligations! Now, sir, let us see how France acknowledged them. These very claims, sir, were denied, resisted, and rejected, by every successive Government of France! The law of nations was urged against them; because, having engaged in a state of war on the account of them, we had no right to a double redress—first by reprisals, and afterwards by indemnity! Besides, France justified her spoliations on the ground that we violated our neutrality; that the ships seized were laden with goods belonging to the English, the enemies of France, and it is well known, sir, that, in ninety-nine cases out of a hundred, this was the fact, that American citizens lent their names to the English, and were ready to risk all the dangers of French spoliation for sake of the great profits, which more than covered the risk. And, in the face of all these facts, we are told, sir, that the French acknowledged the claims, paid them by a release, and we are now bound to satisfy them! And how is this proved, sir? Where are the invincible arguments by which the public treasury is to be emptied? Hear them, sir, if it is possible even to hear them with patience! When we urged these claims, the French negotiators set up a counter claim, and to obtain a release from this, we abandoned them! Thus, thus it is, sir, that the French acknowledged these claims; and, on this pretence, because of this diplomatic cunning and ingenuity, we are now told that the national honor calls on us to pay them! Was ever such a thing heard of before? Why, sir, if we pass this bill, we shall deserve eternal obloquy and disgrace from the whole American people. France, after repeatedly and perseveringly deny-

ing and resisting these claims, at last gets rid of them forever by an ingenious trick, and by pretending to acknowledge them, and now her debt (if it was a debt) is thrown upon us, and, in consequence of this little trick, the public treasury is to be tricked out of several millions! Sir, this is monstrous! I say it is outrageous! I intend no personal disrespect to any gentleman by these observations, but I must do my duty to my country, and I repeat it, sir, this is outrageous!

It is strenuously insisted upon, and appears to be firmly relied upon by gentlemen who have advocated this measure, that the United States has actually received from France full consideration for these claims; in a word, that France has paid them! I have, sir, already shown, by historical facts, by the law of nations, and, further, by the authority and actions of Washington himself, the Father of his Country, that we were placed under no obligations to France by the treaty of guarantee, and that therefore a release from obligations which did not exist, is no valuable consideration at all! But, sir, how can it be urged upon us that France actually paid us for claims which were denied and resisted, when we all know very well that for undisputed claims, for claims acknowledged by treaty, for claims solemnly engaged to be paid, we could never succeed in getting one farthing! I thank the Senator from New Hampshire, (Mr. HILL,) for the enlightened view he has given on this case. What, sir, was the conduct of Napoleon with respect to money? He had bound himself to pay us twenty millions of francs, and he would not pay one farthing! And yet, sir, we are confidently assured by the advocates of this bill that these claims were paid to us by Napoleon! When Louisiana was sold he ordered Marbois to get fifty millions, and did not even then, sir, intend to pay us out of that sum the twenty millions he had bound himself by treaty to pay. Marbois succeeded in getting thirty millions of francs more from us, and from this the twenty millions due was deducted; thus, sir, we were made to pay ourselves our own due, and Napoleon escaped the payment of a farthing. I mean to make no reflection upon our negotiators at that treaty; we may be glad that we got Louisiana at any amount; for if we had not obtained it by money, we should soon have possessed it by blood: the young West, like a lion, would have sprung upon the delta of the Mississippi, and we should have had an earlier edition of the battle of New Orleans. It is not to be regretted, therefore, that we gained Louisiana by negotiation, although we paid our debts ourselves in that bargain. But, sir, Napoleon absolutely scolded Marbois for allowing the deduction of twenty millions out of the sum we paid for Louisiana, forgetting that his minister had got thirty millions more than he ordered him to ask, and that we had paid ourselves the twenty millions due to us under treaty. Having such a man to deal with, how can it be maintained on this floor that the United States

has been paid by him the claims in this bill, and that therefore the treasury is bound to satisfy them? Let Senators, I entreat them, but ask themselves the question, what these claims were worth in the view of Napoleon, that they may not form such an unwarranted conclusion as to think he ever paid them. Every Government of France which preceded him had treated them as English claims, and is it likely that he who refused to pay claims subsequent to these, under treaty signed by himself, would pay old claims anterior to 1800! The claims were not worth a straw; they were considered as lawful spoiliations; that by our proclamation we had broken the neutrality; and, after all, that they were incurred by English enterprises, covered by the American flag. It is pretended he acknowledged them! Would he have inserted two lines in the treaty to rescind them, to get rid of such claims, when he would not pay those he had acknowledged!

To recur once more, sir, to the valuable consideration which it is pretended we received for these claims. It is maintained that we were paid by receiving a release from onerous obligations imposed upon us by the treaty of guarantee, which obligations I have already shown that the great Washington himself pronounced to be nothing; and therefore, sir, it plainly follows that this valuable consideration was—nothing!

What, sir! Is it said we were released from obligations? From what obligations, I would ask, were we relieved? From the obligations of guaranteeing to France her American possessions; from the obligation of conquering St. Domingo for France! From an impossibility, sir! for do we not know that this was impossible to the fleets and armies of France, under Le Clerc, the brother-in-law of Napoleon himself! Did they not perish miserably by the knives of infuriated negroes and the desolating ravages of pestilence? Again, we were released from the obligation of restoring Guadalupe to the French; which also was not possible unless we had entered into a war with Great Britain! And thus, sir, the valuable consideration, the release by which these claims are said to be fully paid to the United States, turns out to be a release from nothing! a release from absolute impossibilities; for it was not possible to guarantee to France her colonies; she lost them, and there was nothing to guarantee; it was a one-sided guaranty! She surrendered them by treaty, and there is nothing for the guaranty to operate on.

The gentleman from Georgia (Mr. KING) has given a vivid and able picture of the exertions of the United States Government in behalf of these claims. He has shown, sir, that they have been paid, and more than paid, on our part, by the invaluable blood of our citizens! Such, indeed, sir, is the fact. What has not been done by the United States on behalf of these claims! For these very claims, for the protection of those very claimants, we underwent an incredible expense both in military and naval armaments.

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French Spoliations prior to 1800.

[SENATE.]

[Here the honorable Senator read a long list of military and naval preparations made by Congress for the protection of these claims, specifying the dates and the numbers.]

Nor did the United States confine herself solely to these strenuous exertions and expensive armaments: besides raising fleets and armies, she sent across the Atlantic embassies, ambassadors, and agents; she gave letters of marque, by which every injured individual might take his own remedy and repay himself his losses. For these very claims, sir, the people were laden at that period with heavy taxes, besides the blood of our people which was spilt for them. Loans were raised at eight per cent. to obtain redress for these claims; and what, sir, was the consequence? It overturned the men in power at that period: this it was which produced that result, more than political differences.

The people were taxed and suffered for these same claims in that day, and now they are brought forward again to exhaust the public treasury again, to sweep away more millions yet from the people, to impose taxes again upon them, for the very same claims for which the people have already once been taxed; reviving the system of '98, to render loans and debts and incumbrances again to be required; to embarrass the Government, entangle the State, to impoverish the people; to dig, in a word, by gradual measures of this description, a pit to plunge the nation headlong into inextricable difficulty and ruin!

The Government in those days performed its duty to the citizens in the protection of their commerce, and by vindicating, asserting, and satisfying these claims; it left nothing undone which now is to be done; the pretensions of this bill are therefore utterly unfounded! Duties are reciprocal: the duty of Government is protection, and that of citizens allegiance. This bill attempts to throw upon the present Government the duties and expenses of a former Government, which have been already once acquitted. On its part, Government has fulfilled, with energy and zeal, its duty to the citizens; it has protected and now is protecting their rights, and asserting their just claims. Witness our navy, kept up in time of peace, for the protection of commerce and for the profit of our citizens; witness our cruisers on every point of the globe, for the security of citizens pursuing every kind of lawful business. But, sir, there are limits to the protection of the interests of individual citizens; peace must at one time or other be obtained, and sacrifices are to be made for a valuable consideration. Now, sir, peace is a valuable consideration, and claims are often necessarily abandoned to obtain it. In 1814 we gave up claims for the sake of peace; we gave up claims for Spanish spoliations at the treaty of Florida; we gave up claims to Denmark. These claims also were given up, long anterior to the others I have mentioned. When peace is made, the claims

take their chance; some are given up for a gross sum, and some, such as these, when they are worth nothing will fetch nothing. How monstrous, therefore, sir, that measure is, which would transfer abandoned and disputed claims from the country, by which they were said to be due, to our own country, to our own Government, upon our own citizens, requiring us to pay what others owed, (nay, what it is doubtful if they did owe,) requiring us to pay what we have never received one farthing for, and for which, if we had received millions, sir, we have paid away more than those millions in arduous exertions on their behalf!

I should not discharge the duty I owe to my country, if I did not probe still deeper into these transactions. What, sir, were the losses which led to these claims? Gentlemen have indulged themselves in all the flights and raptures of poetry on this pathetic topic; we have heard of "ships swept from the ocean, families plunged in want and ruin," and such like! What is the fact, sir? It is as the gentleman from New Hampshire has said: never, sir, was there known, before or since, such a flourishing state of commerce as the very time and period of these spoliations. At that time, sir, men made fortunes if they saved one ship only out of every four or five from the French cruisers! Let us examine the stubborn facts of sober arithmetic in this case, and not sit still and see the people's money charmed out of the treasury by the persuasive notes of poetry. [Mr. B. here referred to public documents showing that, in the years 1793, '94, '95, '96, '97, '98, '99, up to 1800, the exports annually increased at a rapid rate, till, in 1800, they amounted to more than \$91,000,000.]

It must be taken into consideration that at this period our population was less than it is now, our territory was much more limited, we had not Louisiana and the port of New Orleans, and yet our commerce was far more flourishing than it ever has been since, and at a time, too, when we had no mammoth banking corporation to boast of its indispensable, its vital necessity to commerce! These, sir, are the facts of numbers, of arithmetic which blow away the edifice of the gentlemen's poetry, as the wind scatters straws.

With respect to the parties in whose hands these claims are. They are in the hands of insurance offices, assignees, and jobbers; they are in the hands of the knowing ones who have bought them up for two, three, five, ten cents in the dollar! What has become of the screaming babes that have been held up after the ancient Roman method, to excite pity and move our sympathies? What has become of the widows and original claimants? They have been bought out long ago by the knowing ones. If we countenance this bill, sir, we shall renew the disgraceful scenes of 1793, and witness a repetition of the infamous fraud and gambling, and all the old artifices which the certificate funding act gave rise to. [Mr. B. here read

several interesting extracts, describing the scenes which then took place.]

One of the most revolting features of this bill is its relation to the insurers. The most infamous and odious act ever passed by Congress was the certificate funding act of 1798, an act passed in favor of a crowd of speculators; but the principle of this bill is more odious than even it; I mean, sir, that of paying insurers for their losses. The United States, sir, insure! Can any thing be conceived more revolting and atrocious than to direct the funds of the treasury, the property of the people, to such iniquitous uses? On what principle is this grounded? Their occupation is a safe one; they make calculations against all probabilities; they make fortunes at all times; and especially at this very time when we are called upon to refund their losses, they made immense fortunes. It would be far more just and equitable if Congress were to insure the farmers and planters, and pay them their losses on the failure of the cotton crop; they, sir, are more entitled to put forth such claims than speculators and gamblers, whose trade and business it is to make money by losses. This bill, if passed, would be the most odious and unprincipled ever passed by Congress.

MONDAY JANUARY 12.

Mr. KING, of Georgia, announced the arrival of the honorable ALFRED CUTHBERT, elected by the Legislature of the State of Georgia a Senator of the United States, to supply the vacancy occasioned by the resignation of the Honorable John Forsyth. Mr. K. stated, that, owing to an accident, Mr. CUTHBERT had lost his credentials, but that he (Mr. K.) could avouch the fact of his election; and, as he understood that there was a precedent for the motion, he moved that Mr. CUTHBERT be permitted to take his seat.

The motion was agreed to without opposition, and the usual oath to support the constitution was administered to Mr. CUTHBERT by the VICE PRESIDENT, and Mr. CUTHBERT took his seat.

French Spoliations.

The Senate proceeded to the special order of the day, being the French spoliation bill.

Mr. WEBSTER said: This is no party question; it involves no party principles; affects no party interests; seeks no party ends or objects—and as it is a question of private right and justice, it would be flagrant wrong and injustice to attempt to give to it, anywhere, the character of a party measure. The petitioners, the sufferers under the French spoliations, belong to all parties. Gentlemen of distinction, of all parties, have at different times maintained the justice of the claim. The present bill is intended for the equal relief of all sufferers; and if the measure shall become a party measure, I, for one, shall not pursue it. It will be wiser to leave it till better auspices shall appear.

The question, sir, involved in this case, is essentially a judicial question. It is not a question of public policy, but a question of private right; a question between the Government and the petitioners; and, as the Government is to be judged in its own case, it would seem to be the duty of its members to examine the subject with the most scrupulous good faith, and the most solicitous desire to do justice.

There is a propriety in commencing the examination of these claims in the Senate, because it was the Senate which, by its amendment of the treaty of 1800, and its subsequent ratification of that treaty, and its recognition of the declaration of the French Government, effectually released the claims as against France, and forever cut off the petitioners from all hopes of redress from that quarter. The claims as claims against our own Government, have their foundation in these acts of the Senate itself; and it may certainly be expected that the Senate will consider the effects of its own proceedings, on private rights and private interests, with that candor and justice which belong to its high character.

It ought not to be objected to these petitioners, that their claim is old, or that they are now reviving any thing which has heretofore been abandoned. There has been no delay which is not reasonably accounted for. The treaty by which the claimants say their claims on France for these captures and confiscations were released was concluded in 1800. They immediately applied to Congress for indemnity, as will be seen by the report made in 1802, in the House of Representatives, by a committee of which a distinguished member from Virginia, not now living, (Mr. Giles,) was chairman.

In 1807, on the petition of sundry merchants and others, citizens of Charleston, in South Carolina, a committee of the House of Representatives, of which Mr. Marion, of that State, was chairman, made a report, declaring that the committee was of opinion that the Government of the United States was bound to indemnify the claimants. But at this time our affairs with the European Powers at war had become exceedingly embarrassed; our Government had felt itself compelled to withdraw our commerce from the ocean; and it was not until after the conclusion of the war of 1812, and after the general pacification of Europe, that a suitable opportunity occurred of presenting the subject again to the serious consideration of Congress. From that time the petitioners have been constantly before us, and the period has at length arrived proper for a final decision of their case.

Another objection, sir, has been urged against these claims, well calculated to diminish the favor with which they might otherwise be received, and which is without any substantial foundation in fact. It is, that a great portion of them has been bought up, as a matter of speculation, and it is now holden by these pur-

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chasers. It has even been said, I think, on the floor of the Senate, that nine-tenths, or ninety-hundredths, of all the claims are owned by speculators.

Such unfounded statements are not only wholly unjust towards these petitioners themselves, but they do great mischief to other interests. I have observed that a French gentleman of distinction, formerly a resident in this country, is represented in the public newspapers as having declined the offer of a seat in the French administration, on the ground that he could not support the American treaty; and he could not support the treaty because he had learned, or heard, while in America, that the claims were no longer the property of the original sufferers, but had passed into unworthy hands. If any such thing has been learned in the United States, it has been learned from sources entirely incorrect. The general fact is not so; and this prejudice, thus operating on a great national interest—an interest in regard to which we are in danger of being seriously embroiled with a foreign State—was created, doubtless, by the same incorrect and unfounded assertions which have been made relative to this other class of claims.

In regard to both classes, and to all classes of claims of American citizens on foreign Governments, the statement is at variance with the facts. Those who make it have no proof of it. On the contrary, incontrovertible evidence exists of the truth of the very reverse of this statement. The claims against France, since 1800, are now in the course of adjudication. They are all, or very nearly all, presented to the proper tribunal. Proofs accompany them, and the rules of the tribunal require that, in each case, the true ownership should be fully and exactly set out, on oath; and be proved by the papers, vouchers, and other evidence. Now, sir, if any man is acquainted, or will make himself acquainted, with the proceedings of this tribunal, so far as to see who are the parties claiming the indemnity, he will see the absolute and enormous error of those who represent these claims to be owned, in great part, by speculators.

The truth is, sir, that these claims, as well those since 1800 as before, are owned and possessed by the original sufferers, with such changes only as happen in regard to all other property. The original owner of ship and cargo; his representative, where such owner is dead; underwriters who have paid losses on account of captures and confiscations; and creditors of insolvents and bankrupts who were interested in the claims—these are the descriptions of persons who, in all these cases, own vastly the larger portion of the claims. This is true of the claims on Spain, as is most manifest from the proceedings of the commissioners under the Spanish treaty. It is true of the claims on France arising since 1800, as is equally manifest by the proceedings of the commissioners now sitting; and it is equally true of the

claims which are the subject of this discussion, and provided for in this bill. In some instances claims have been assigned from one to another, in the settlement of family affairs. They have been transferred, in other instances, to secure or to pay debts; they have been transferred, sometimes, in the settlement of insurance accounts; and it is probable there are a few cases in which the necessities of the holders have compelled them to sell them. But nothing can be further from the truth than that they have been the general subjects of purchase and sale, and that they are now holden mainly by purchasers from the original owners. They have been compared to the unfunded debt. But that consisted in scrip, of fixed amount, and which passed from hand to hand by delivery. These claims cannot so pass from hand to hand. In each case, not only the value but the amount is uncertain. Whether there be any claim, is in each case a matter for investigation and proof; and so is the amount, when the justice of the claim itself is established. These circumstances are of themselves quite sufficient to prevent the easy and frequent transfer of the claims from hand to hand. They would lead us to expect that to happen which actually has happened; and that is, that the claims remain with their original owners, and their legal heirs and representatives, with such exceptions as I have already mentioned. As to the portion of the claims now owned by underwriters, it can hardly be necessary to say that they stand on the same equity and justice as if possessed and presented by the owners of ships and goods. There is no more universal maxim of law and justice, throughout the civilized and commercial world, than that an underwriter, who has paid a loss on ships or merchandise to the owner, is entitled to whatever may be received from the property. His right accrues by the very act of payment; and if the property, or its proceeds, be afterwards recovered, in whole or in part, whether the recovery be from the sea, from captors, or from the justice of foreign States, such recovery is for the benefit of the underwriter. Any attempt, therefore, to prejudice these claims, on the ground that many of them belong to insurance companies, or other underwriters, is at war with the first principles of justice.

A short but accurate general view of the history and character of these claims is presented in the report of the Secretary of State, on the 20th of May, 1826, in compliance with a resolution of the Senate. Allow me, sir, to read the paragraphs:

“The Secretary can hardly suppose it to have been the intention of the resolution to require the expression of an argumentative opinion as to the degree of responsibility to the American sufferers from French spoliations, which the convention of 1800 extinguished on the part of France, or devolved on the United States, the Senate itself being most competent to decide that question. Under this impression, he hopes that he will have sufficiently conformed to the purposes of the Senate, by

a brief statement, prepared in a hurried moment, of what he understands to be the question.

"The second article of the convention of 1800 was in the following words: 'The ministers plenipotentiary of the two parties not being able to agree at present respecting the treaty of alliance of the 6th of February, 1778, the treaty of amity and commerce of the same date, and the convention of the 14th of November, 1788, nor upon the indemnities mutually due or claimed, the parties will negotiate farther on these subjects at a convenient time; and until they may have agreed upon these points, the said treaties and convention shall have no operation, and the relations of the two countries shall be regulated as follows.'

"When that convention was laid before the Senate, it gave its consent and advice that it should be ratified, provided that the second article be expunged, and that the following article be added or inserted: 'It is agreed that the present convention shall be in force for the term of eight years from the time of the exchange of the ratifications;' and it was accordingly so ratified by the President of the United States on the 18th day of February, 1801. On the 31st of July of the same year, it was ratified by Bonaparte, First Consul of the French Republic, who incorporated in the instrument of his ratification the following clause as part of it: 'The Government of the United States having added to its ratification that the convention should be in force for the space of eight years, and having omitted the second article, the Government of the French Republic consents to accept, ratify, and confirm the above convention, with the addition, importing that the convention shall be in force for the space of eight years, and with the retrenchment of the second article: *Provided*, That, by this retrenchment, the two States renounce the respective pretensions which are the object of the said article.'

"The French ratification being thus conditional, was, nevertheless, exchanged against that of the United States, at Paris, on the same 31st of July. The President of the United States considering it necessary again to submit the convention in this state to the Senate, on the 19th day of December, 1801, it was resolved by the Senate that they considered the said convention as fully ratified, and returned it to the President for the usual promulgation. It was accordingly promulgated, and thereafter regarded as a valid and binding compact. The two contracting parties thus agreed, by the retrenchment of the second article, mutually to renounce the respective pretensions which were the object of that article. The pretensions of the United States, to which allusion is thus made, arose out of the spoiliations under color of French authority, in contravention of law and existing treaties. Those of France sprung from the treaty of alliance of the 6th of February, 1778, the treaty of amity and commerce of the same date, and the convention of the 14th of November, 1788. Whatever obligations or indemnities, from these sources, either party had a right to demand, were respectively waived and abandoned; and the consideration which induced one party to renounce his pretensions, was that of renunciation by the other party of his pretensions. What was the value of the obligations and indemnities so reciprocally renounced, can only be matter of speculation. The amount of the indemnities due to the citizens of the United States was very large; and, on the other hand, the obligation was great (to specify no other French pre-

tensions) under which the United States were placed in the eleventh article of the treaty of alliance of the 6th of February, 1778, by which they were bound forever to guarantee from that time the then possessions of the Crown of France in America, as well as those which it might acquire by the future treaty of peace with Great Britain; all these possessions having been, it is believed, conquered, at or not long after the exchange of the ratifications of the convention of September, 1800, by the arms of Great Britain from France.

"The fifth article of the amendments to the constitution provides: 'nor shall private property be taken for public use without just compensation.' If the indemnities to which citizens of the United States were entitled for French spoiliations prior to the 30th of September, 1800, have been appropriated to absolve the United States from the fulfilment of an obligation which they had contracted, or from the payment of indemnities which they were bound to make to France, the Senate is most competent to determine how far such an appropriation is a public use of private property within the spirit of the constitution, and whether equitable considerations do not require some compensation to be made to the claimants. The Senate is also best able to estimate the probability which existed of an ultimate recovery from France of the amount due for those indemnities, if they had not been renounced; in making which estimate, it will, no doubt, give just weight to the painful consideration that repeated and urgent appeals have been, in vain, made to the justice of France for satisfaction of flagrant wrongs committed upon property of other citizens of the United States subsequent to the period of the 30th of September, 1800."

Before the interference of our Government with these claims, they constituted just demands against the Government of France. They were not vague expectations of possible future indemnity for injuries received, too uncertain to be regarded as valuable, or be esteemed property. They were just demands, and, as such, they were property. The courts of law took notice of them as property. They were capable of being devised, of being distributed among heirs and next of kin, and of being transferred and assigned, like other legal and just debts. A claim or demand for a ship unjustly seized and confiscated is property, as clearly as the ship itself. It may not be so valuable or so certain; but it is as clear a right and has been uniformly so regarded by the courts of law. The papers show that American citizens had claims against the French Government for six hundred and fifteen vessels unlawfully seized and confiscated. If this were so, it is difficult to see how the Government of the United States can release these claims for its own benefit, with any more propriety than it could have applied the money to its own use, if the French Government had been ready to make compensation, in money, for the property thus illegally seized and confiscated; or how the Government could appropriate to itself the just claims which the owners of these six hundred and fifteen vessels held against the wrong-doers, without making compensation,

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any more than it could appropriate to itself, without making compensation, six hundred and fifteen ships which had not been seized. I do not mean to say that the rate of compensation should be the same in both cases; I do not mean to say that a claim for a ship is of as much value as a ship; but I mean to say that both the one and the other are property, and that Government cannot, with justice, deprive a man of either, for its own benefit, without making a fair compensation.

It will be perceived at once, sir, that these claims do not rest on the ground of any neglect or omission, on the part of the Government of the United States, in demanding satisfaction from France. That is not the ground. The Government of the United States, in that respect, performed its full duty. It remonstrated against these illegal seizures; it insisted on redress; it sent two special missions to France, charged expressly, among other duties, with the duty of demanding indemnity. But France had her subjects of complaint, also, against the Government of the United States, which she pressed with equal earnestness and confidence, and which she would neither postpone nor relinquish, except on the condition that the United States would postpone or relinquish these claims. And to meet this condition, and to restore harmony between the two nations, the United States did agree, first to postpone, and afterwards to relinquish, these claims of its own citizens. In other words, the Government of the United States bought off the claims of France against itself, by discharging claims of our own citizens against France.

This, sir, is the ground on which these citizens think they have a claim for reasonable indemnity against their own Government. And now, sir, before proceeding to the disputed part of the case, permit me to state what is admitted.

In the first place, then, it is universally admitted that these petitioners once had just claims against the Government of France, on account of these illegal captures and condemnations.

In the next place, it is admitted that these claims no longer exist against France; that they have, in some way, been extinguished or released, as to her; and that she is forever discharged from all duty of paying or satisfying them, in whole or in part.

These two points being admitted, it is then necessary, in order to support the present bill, to maintain four propositions:

1. That these claims subsisted against France up to the time of the treaty of September, 1800, between France and the United States.

2. That they were released, surrendered, or extinguished, by that treaty, its amendment in the Senate, and the manner of its final ratification.

3. That they were thus released, surrendered, or extinguished, for political and national con-

siderations, for objects and purposes deemed important to the United States, but in which these claimants had no more interest than any other citizens.

4. That the amount or measure of indemnity proposed by this bill is no more than a fair and reasonable compensation, so far as we can judge by what has been done in similar cases.

1. Were these subsisting claims against France up to the time of the treaty? It is a conclusive answer to this question, to say that the Government of the United States insisted that they did exist, up to the time of the treaty, and demanded indemnity for them, and that the French Government fully admitted their existence, and acknowledged its obligation to make such indemnity.

The negotiation, which terminated in the treaty, was opened by a direct proposition for indemnity, made by our ministers, the justice and propriety of which was immediately acceded to by the ministers of France.

On the 7th of April, 1800, in their first letter to the ministers of France, Messrs. Ellsworth, Davie, and Murray, say:

"Citizen ministers: The undersigned, appreciating the value of time, and wishing by frankness to evince their sincerity, enter directly upon the great object of their mission—an object which they believe may be best obtained by avoiding to retrace minutely the too well known and too painful incidents which have rendered a negotiation necessary.

"To satisfy the demands of justice, and render a reconciliation cordial and permanent, they propose an arrangement, such as shall be compatible with national honor and existing circumstances, to ascertain and discharge the equitable claims of the citizens of either nation upon the other, whether founded on contract, treaty, or the law of nations. The way being thus prepared, the undersigned will be at liberty to stipulate for that reciprocity and freedom of commercial intercourse between the two countries which must essentially contribute to their mutual advantage.

"Should this general view of the subject be approved by the ministers plenipotentiary to whom it is addressed, the details, it is presumed, may be easily adjusted, and that confidence restored which ought never to have been shaken."

To this letter the French ministers immediately returned the following answer:

"The ministers plenipotentiary of the French Republic have read attentively the proposition for a plan of negotiation which was communicated to them by the envoys extraordinary and ministers plenipotentiary of the United States of America.

"They think that the first object of the negotiation ought to be the determination of the regulations, and the steps to be followed for the estimation and indemnification of injuries for which either nation may make claim for itself, or for any of its citizens. And that the second object is to assure the execution of treaties of friendship and commerce made between the two nations, and the accomplishment of the views of reciprocal advantages which suggested them."

It is certain, therefore, that the negotiation

commenced in the recognition, by both parties, of the existence of individual claims, and of the justice of making satisfaction for them; and it is equally clear that, throughout the whole negotiation, neither party suggested that these claims had already been either satisfied or extinguished; and it is indisputable that the treaty itself in the second article, expressly admitted their existence, and solemnly recognized the duty of providing for them at some future period.

It will be observed, sir, that the French negotiators, in their first letter, while they admit the justice of providing indemnity for individual claims, bring forward, also, claims arising under treaties; taking care, thus early, to advance the pretensions of France on account of alleged violations by the United States of the treaties of 1778. On that part of the case, I shall say something hereafter; but I use this first letter of the French minister, at present only to show that, from the first, the French Government admitted its obligations to indemnify individuals who had suffered wrongs and injuries.

The honorable member from New York (Mr. WRIGHT) contends, sir, that, at the time of concluding the treaty, these claims had ceased to exist. He says that a war had taken place between the United States and France, and by the war the claims had become extinguished. I differ from the honorable member, both as to the fact of war, and as to the consequences to be deduced from it, in this case, even if public war had existed. If we admit, for argument's sake, that war had existed, yet we find that, on the restoration of amity, both parties admit the justice of these claims and their continued existence, and the party against which they are preferred acknowledges her obligation, and expresses her willingness to pay them. The mere fact of war can never extinguish any claim. If, indeed, claims for indemnity be the professed ground of a war, and peace be afterwards concluded without obtaining any acknowledgment of the right, such a peace may be construed to be a relinquishment of the right, on the ground that the question has been put to the arbitration of the sword, and decided. But, if a war be waged to enforce a disputed claim, and it be carried on till the adverse party admit the claim, and agree to provide for its payment, it would be strange, indeed, to hold that the claim itself was extinguished by the very war which had compelled its express recognition. Now, whatever we call that state of things which existed between the United States and France from 1798 to 1800, it is evident that neither party contended or supposed that it had been such a state of things as had extinguished individual claims for indemnity for illegal seizures and confiscations.

The honorable member, sir, to sustain his point, must prove that the United States went to war to vindicate these claims; that they

waged that war unsuccessfully; and that they were therefore glad to make peace, without obtaining payment of the claims, or any admission of their justice. I am happy, sir, to say that, in my opinion, facts do not authorize any such record to be made up against the United States. I think it is clear, sir, that whatever misunderstanding existed between the United States and France, it did not amount, at any time, to open and public war. It is certain that the amicable relations of the two countries were much disturbed; it is certain that the United States authorized armed resistance to French captures, and the captures of French vessels of war found hovering on our coast; but it is certain, also, not only that there was no declaration of war, on either side, but that the United States, under all their provocations, did never authorize general reprisals on French commerce. At the very moment when the gentleman says war raged between the United States and France, French citizens came into our courts, in their own names, claimed restitution for property seized by American cruisers, and obtained decrees of restitution. They claimed as citizens of France, and obtained restoration, in our courts, as citizens of France. It must have been a singular war, sir, in which such proceedings could take place. Upon a fair view of the whole matter, Mr. President, it will be found, I think, that every thing done by the United States was defensive. No part of it was ever retaliatory. The United States did not take justice into their own hands.

The strongest measure, perhaps, adopted by Congress was the act of May 28, 1798. The honorable member from New York has referred to this act, and chiefly relies upon it, to prove the existence, or the commencement, of actual war. But does it prove either the one or the other?

It is not an act declaring war; it is not an act authorizing reprisals; it is not an act which, in any way, acknowledges the actual existence of war. Its whole implication and import is the other way. Its title is, "An act more effectually to protect the commerce and coasts of the United States."

This is its preamble:

"Whereas armed vessels, sailing under authority, or pretence of authority, from the Republic of France, have committed depredations on the commerce of the United States, and have recently captured the vessels and property of citizens thereof, on and near the coasts, in violation of the law of nations, and treaties between the United States and the French nation: therefore"—

And then follows its only section, in these words:

"Sec. 1. *Be it enacted, &c.*, That it shall be lawful for the President of the United States, and he is hereby authorized, to instruct and direct the commanders of the armed vessels belonging to the United States, to seize, take, and bring into any port

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of the United States, to be proceeded against according to the laws of nations, any such armed vessel which shall have committed, or which shall be found hovering on the coasts of the United States for the purpose of committing depredations on the vessels belonging to citizens thereof; and also retake any ship or vessel, of any citizen or citizens of the United States, which may have been captured by any such armed vessel."

This act, it is true, authorized the use of force, under certain circumstances, and for certain objects, against French vessels. But there may be acts of authorized force, there may be assaults, there may be battles, there may be captures of ships and imprisonment of persons, and yet no general war. Cases of this kind may occur under that practice of retaliation which is justified, when adopted for just cause, by the laws and usages of nations, and which all the writers distinguish from general war.

The first provision in this law is purely preventive and defensive; and the other hardly goes beyond it. Armed vessels hovering on our coast, and capturing our vessels, under authority, or pretence of authority, from a foreign State, might be captured and brought in, and vessels already seized by them retaken. The act is limited to armed vessels; but why was this, if general war existed? Why was not the naval power of the country let loose at once, if there were war, against the commerce of the enemy? The cruisers of France were preying on our commerce; if there was war, why were we restrained from general reprisals on her commerce? This restraining of the operation of our naval marine to armed vessels of France, and to such of them only as should be found hovering on our coast, for the purpose of committing depredations on our commerce, instead of proving a state of war, proves, I think, irresistibly, that a state of general war did not exist. But even if this act of Congress left the matter doubtful, other acts passed at and near the same time demonstrate the understanding of Congress to have been, that although relations between the two countries were greatly disturbed, yet that war did not exist. On the same day (May 28, 1798) in which this act passed, on which the member from New York lays so much stress, as proving the actual existence of war with France, Congress passed another act, entitled "An act authorizing the President of the United States to raise a provisional army;" and the first section declared that the President should be authorized, "in the event of a declaration of war against the United States, or of actual invasion over their territory by a foreign power, or of imminent danger of such invasion, to cause to be enlisted," &c., ten thousand men.

On the 16th of July following, Congress passed the law for augmenting the army, the second section of which authorized the President to raise twelve additional regiments of infantry, and six troops of light dragoons, "to

be enlisted for and during the continuance of the existing differences between the United States and the French Republic, unless sooner discharged," &c.

The following spring, by the act of the 2d of March, 1799, entitled "An act giving eventual authority to the President of the United States to augment the army," Congress provided that it should be lawful for the President of the United States, in case war should break out between the United States and a foreign European Power, &c., to raise twenty-four regiments of infantry, &c. And in the act for better organizing the army, passed the next day, Congress repeats the declaration, contained in a former act, that certain provisions shall not take effect unless war shall break out between the United States and some European prince, potentate, or State.

On the 20th of February, 1800, an act was passed to suspend the act for augmenting the army; and this last act declared that further enlistments should be suspended until the further order of Congress, unless in the recess of Congress, and during the continuance of the existing differences between the United States and the French Republic, war should break out between the United States and the French Republic, or imminent danger of an invasion of their territory by the said Republic should be discovered.

On the 14th of May, 1800, four months before the conclusion of the treaty, Congress passed an act authorizing the suspension of military appointments, and the discharge of troops under the provisions of the previous laws. No commentary is necessary, sir, on the texts of these statutes, to show that Congress never recognized the existence of war between the United States and France. They apprehended war might break out; and they made suitable provision for that exigency, should it occur; but it is quite impossible to reconcile the express and so often repeated declarations of these statutes commencing in 1798, running through 1799, and ending in 1800, with the actual existence of war between the two countries at any period within those years.

The honorable member's second principal source of argument, to make out the fact of a state of war, is the several non-intercourse acts. And here again it seems to me an exactly opposite inference is the true one. In 1798, 1799, and 1800, acts of Congress were passed suspending the commercial intercourse between the United States, each for one year. Did any Government ever pass a law of temporary non-intercourse with a public enemy? Such a law would be little less than an absurdity. War itself effectually creates non-intercourse. It renders all trade with the enemy illegal, and, of course, subjects all vessels so found engaged, with their cargoes, to capture and condemnation as enemy's property. The first of these laws was passed June 18, 1798, the last Febru-

ary, 27, 1800. Will the honorable member from New York tell us when the war commenced? When did it break out? When did those "differences," of which the acts of Congress speak, assume a character of general hostility? Was there a state of war on the 18th of June, 1798, when Congress passed the first non-intercourse act; and did Congress, in a state of public war, limit non-intercourse with the enemy to one year? Or was there a state of peace in June, 1798? and, if so, I ask again, at what time, after that period, and before September, 1800, did the war break out? Difficulties of no small magnitude surround the gentleman, I think, whatever course he takes through these statutes, while he attempts to prove from them a state of war. The truth is, they prove, incontestably, a state of peace; a state of endangered, disturbed, agitated peace; but still a state of peace. Finding themselves in a state of great misunderstanding and contention with France, and seeing our commerce a daily prey to the rapacity of her cruisers, the United States preferred non-intercourse to war. This is the ground of the non-intercourse acts. Apprehending, nevertheless, that war might break out, Congress made prudent provision for it by augmenting the military force of the country. This is the ground of the laws for raising a provisional army. The entire provisions of all these laws necessarily suppose an existing state of peace; but they imply also an apprehension that war might commence. For a state of actual war they were all unsuited; and some of them would have been, in such a state, preposterous and absurd. To a state of present peace, but disturbed, interrupted, and likely to terminate in open hostilities, they were all perfectly well adapted. And as many of these acts, in express terms, speak of war as not actually existing, but as likely or liable to break out, it is clear, beyond all reasonable question, that Congress never, at any time, regarded the state of things existing between the United States and France as being a state of war.

As little did the Executive Government so regard it, as must be apparent from the instructions given to our ministers, when the mission was sent to France. Those instructions, having recurred to the numerous acts of wrong committed on the commerce of the United States and the refusal of indemnity by the Government of France, proceed to say:

"This conduct of the French Republic would well have justified an immediate declaration of war on the part of the United States; but, desirous of maintaining peace, and still willing to leave open the door of reconciliation with France, the United States contented themselves with preparations for defence, and measures calculated to protect their commerce."

It is equally clear, on the other hand, that neither the French Government nor the French ministers acted on the supposition that war had existed between the two nations. And it was

for this reason that they held the treaties of 1778 still binding. Within a month or two of the signature of the treaty, the ministers plenipotentiary of the French Republic write thus to Messrs. Ellsworth, Davie, and Murray:

"In the first place, they will insist upon the principle already laid down, in their former note, viz.: that the treaties which united France and the United States are not broken; that even war could not have broken them; but that the state of misunderstanding which existed for some time between France and the United States, by the act of some agents rather than by the will of the respective Governments, has not been a state of war, at least on the side of France."

Finally, sir, the treaty itself, what is it? It is not called a treaty of peace; it does not provide for putting an end to hostilities. It says not one word of any preceding war; but it does say that "differences" have arisen between the two States, and that they have, therefore, respectively, appointed their plenipotentiaries, and given them full power to treat upon those "differences," and to terminate the same.

But the second article of the treaty, as negotiated and agreed on by the ministers of both Governments, is, of itself, a complete refutation of the whole argument which is urged against this bill, on the ground that the claims had been extinguished by war, since that article distinctly and expressly acknowledges the existence of the claims, and contains a solemn pledge that the two Governments, not being able to agree on them at present, will negotiate further on them, at convenient time thereafter. Whether we look, then, to the decisions of the American courts, to the acts of Congress, to the instructions of the American Executive Government, to the language of our ministers, to the declarations of the French Government and the French ministers, or to the unequivocal language of the treaty itself, as originally agreed to, we meet irresistible proof of the truth of the declaration, that the state of misunderstanding which had existed between the two countries was not war.

If the treaty had remained as the ministers on both sides agreed upon it, the claimants, though their indemnity was postponed, would have had no just claim on their own Government. But the treaty did not remain in this state. This second article was stricken out by the Senate; and, in order to see the obvious motive of the Senate in thus striking out the second article, allow me to read the whole article. It is in these words:

"The ministers plenipotentiary of the two parties not being able to agree, at present, respecting the treaty of alliance of the 6th of February, 1778, the treaty of amity and commerce of the same date, and the convention of the 14th of November, 1788, nor upon the indemnities mutually due or claimed, the parties will negotiate further on these subjects at a convenient time; and until they may have agreed upon these points, the said treaties and convention

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shall have no operation, and the relations of the two countries shall be regulated as follows."

The article thus stipulating to make the claims of France, under the old treaties, matter of further negotiation, in order to get rid of such negotiation, and the whole subject, the Senate struck out the entire article, and ratified the treaty in this corrected form. France ratified the treaty, as thus amended, with the further declaration that, by thus retrenching the second article, the two nations renounce the respective pretensions which were the object of the article. In this declaration of the French Government, the Senate afterwards acquiesced; so that the Government of France, by this retrenchment, agreed to renounce her claims under the treaties of 1778, and the United States, in like manner, renounced the claims of their citizens for indemnities due to them.

And this proves, sir, the second proposition which I stated at the commencement of my remarks, viz.: that these claims were released, relinquished, or extinguished, by the amendment of the treaty, and its ratification as amended. It is only necessary to add, on this point, that these claims for captures before 1800 would have been good claims under the late treaty with France, and would have come in for a dividend in the fund provided by that treaty, if they had not been released by the treaty of 1800. And they are now excluded from all participation in the benefit of the late treaty, because of such release or extinguishment by that of 1800.

In the third place, sir, it is to be proved, if it be not proved already, that these claims were surrendered, or released by the Government of the United States, on national considerations, and for objects in which these claimants had no more interest than any other citizens.

Now, sir, I do not feel called on to make out that the claims and complaints of France against the Government of the United States were well founded. It is certain that she put forth such claims and complaints, and insisted on them to the end. It is certain that, by the treaty of alliance of 1778, the United States did guarantee to France her West India possessions. It is certain that, by the treaty of commerce of the same date, the United States stipulated that French vessels of war might bring their prizes into the ports of the United States, and that the enemies of France should not enjoy that privilege; and it is certain that France contended that the United States had plainly violated this article, as well by their subsequent treaty with England as by other acts of the Government. For the violation of these treaties she claimed indemnity from the Government of the United States. Without admitting the justice of these pretensions, the Government of the United States found them extremely embarrassing, and they authorized our ministers in France to buy them off by money.

For the purpose of showing the justice of the present bill, it is not necessary to insist that France was right in these pretensions. Right or wrong, the United States were anxious to get rid of the embarrassments which they occasioned. They were willing to compromise the matter. The existing state of things, then, was exactly this:

France admitted that the citizens of the United States had just claims against her; but she insisted that she, on the other hand, had just claims against the Government of the United States.

She would not satisfy our citizens, till our Government agreed to satisfy her. Finally, a treaty is ratified, by which the claims on both sides are renounced.

The only question is, whether the relinquishment of these individual claims was the price which the United States paid for the relinquishment, by France, of her claims against our Government? And who can doubt it? Look to the negotiation; the claims on both sides were discussed together. Look to the second article of the treaty, as originally agreed to; the claims on both sides are there reserved together. And look to the Senate's amendment, and to the subsequent declaration of the French Government, acquiesced in by the Senate; and there the claims on both sides are renounced together. What stronger proof could there be of mutuality of consideration? Sir, allow me to put this direct question to the honorable member from New York. If the United States did not agree to renounce these claims, in consideration that France would renounce hers, what was the reason why they surrendered thus the claims of their own citizens? Did they do it without any consideration at all? Was the surrender wholly gratuitous? Did they thus solemnly renounce claims for indemnity, so just, so long insisted on by themselves, the object of two special missions, the subjects of so much previous controversy, and at one time so near being the cause of open war—did the Government surrender and renounce them gratuitously, or for nothing? Had it no reasonable motive in the relinquishment? Sir, it is impossible to maintain any such ground.

Mr. CALHOUN spoke a short time in opposition to the bill.

Messrs. CLAY and WEBSTER replied to the objections of Mr. CALHOUN.

TUESDAY, JANUARY 18.

French Spoliations.

The Senate took up for consideration the special order of the day, being the bill granting indemnity to United States citizens for spoliations committed by France on the American commerce prior to the year 1800.

Mr. BIRB said he agreed with the Senator from Massachusetts, (Mr. WEBSTER,) that the subject partakes much of the character of a

judicial question, to be decided by the effect of treaties and the general law of nations.

That private property shall not be taken, nor applied to public use, without just compensation, is a principle of equity ingrafted into our constitution; not made by it, but expressly recognized, because it was pre-existing, universal, and immutable.

The property proposed to be compensated by this bill was not taken by the Government of the United States, but by the Government of France and French citizens, against the consent of the United States, in violation as well of the law of nations as of treaties then subsisting between the United States and France. They commenced in 1793, and run to the 30th of September, 1800.

The argument is, that the United States have applied these claims of American citizens to their use, in exchange for indemnities due by the United States to France, on account of the supposed breach committed by the United States of the guarantee of the French West India possessions, contained in their treaty of alliance of the 5th of February, 1778, and for a release of that guaranty. To maintain that argument, the treaty of amity and commerce between the United States and France of the 6th of February, 1778, the treaty of alliance of the same date, and the consular convention of the 14th of November, 1788, are relied on as having been subsisting and undischarged obligations on the United States at the making of the treaty of the 30th September, 1800: moreover, that a *casus fœderis*, provided for in the treaty of alliance, had occurred; that the United States had not kept their stipulation to guarantee the French possession of the West India islands; and to purchase their release from France for that past breach, and from the obligation of the guaranty in future, they had released to France the claims of the American citizens.

These releases are supposed to have been wrought by the united effects of these causes—the act of the Senate in expunging the second article of the treaty of 1800; the assent of France to that retrenchment, with the declaration “provided that by this retrenchment the two States renounce the respective pretensions which are the object of the said article; and the acceptance of such ratification from France by the treaty-making power of the United States.

If that guaranty was a subsisting obligation at the signature of the treaty of 1800, and if the United States have purchased their release from the guaranty, or from indemnities due to France for a past breach of that guaranty, in consideration of the claims of American citizens on France, then indeed compensation is due to such citizens.

Government ought to protect its citizens in their lawful pursuits against the aggressions of foreign powers, if such acts be committed against the law of nations or of treaties. The

Government is bound to come to the assistance of its citizens in seeking retribution for injuries, if denied by the aggressor.

But these rights of the citizens to protection, and this duty of the Government to aid and assist in seeking retribution, is circumscribed and held in subjection to the general welfare. The Government ought to prosecute the claims of its citizens upon a foreign Government with diligence and good faith. The citizens have a right to expect that their claims to compensation shall not be injured by any ill conduct of their own Government. But no citizen has the right to demand that his claim upon a foreign Government shall be pushed by his own Government to the extremity of war, much less to a war which is inconsistent with the general weal, and may endanger the national existence and independence. Such are the limitations, without dissent, promulgated by those eminent writers who have treated of the law of nature and of nations, as a system of morality, jurisprudence, and politics.

Under a most solemn impression of the high obligation imposed by the Constitution of the United States to protect our foreign commerce, as being one among the leading inducements to its adoption; and under a full persuasion that an established character of Government for the observance of justice and good faith is above all price, (for such a character can command the surplus wealth of its citizens and of the world,) I proceed to examine the conduct of the Government of the United States relative to the claims now brought up for compensation.

When President Washington issued his proclamation of neutrality of the 23d of April, 1793, a state of war existed between Austria, Prussia, Sardinia, the United Netherlands, and Great Britain, of the one part, and France on the other. That man, justly styled “first in war, first in peace, and first in the hearts of his countrymen,” took this position for his country after a mature deliberation, aided by the counsel of those eminent statesmen and jurists who stood responsible to him and to the people for the fidelity of their counsels. Mr. Jefferson, then Secretary of State, Mr. Hamilton, the Secretary of the Treasury, and Mr. Edmund Randolph, the Attorney-General, were of the number of those distinguished citizens to whose researches and discussions President Washington had recourse, on questions of great public concern, to assist his own unrivalled judgment in coming to a just conclusion. After mature deliberation upon the then existing state of things, as the Senator from Missouri (Mr. BENTON) has well demonstrated, President Washington adopted and pursued the enlightened policy of observing a strict neutrality, cultivating the friendship of all, and observing existing treaties with good faith. He determined that the United States were of right to be respected as a neutral in that war.

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His proclamation, with his instructions to the collectors, were alluded to in his speech to both Houses of Congress on the 8d December, 1793, at the opening of their ensuing session, and were laid before them. The addresses of the Senate and of the House of Representatives, respectively, in answer, express for each House their hearty approbation. The Senate said :

"As the European Powers with whom the United States have the most extensive relations, are involved in war, in which we had taken no part, it seemed necessary that the disposition of the nation for peace should be promulgated to the world, as well for the purpose of admonishing our citizens of the consequence of a contraband trade, and of acts hostile to any of the belligerent parties, as to obtain, by a declaration of the existing legal state of things, an easier admission of our right to the immunities of our situation : we therefore contemplate with pleasure the proclamation by you issued, and give it our hearty approbation. We deem it a measure well-timed and wise.

The address of the House of Representatives is equally explicit in the expressions of their "approbation and pleasure" at witnessing the proclamation. They commend it as an act of proper vigilance to guard against an interruption of the blessings of peace, and as promoting "by a declaration of the existing legal state of things, an easier admission of our right to the immunities belonging to our situation."

The neutrality of the United States, upon the breaking out of the war between France and the powers of Europe, was that "legal state of things."

In the speech of President Washington to both Houses of Congress, on the 19th November, 1794, after alluding to our intercourse with foreign nations, and to circumstances which would be transmitted, he proceeds :

"However, it may not be unreasonable to announce that my policy, in our foreign transactions, has been to cultivate peace with all the world ; to observe treaties with pure and absolute faith ; to check every deviation from the line of impartiality," &c.

The Senate and the House of Representatives again approved the policy pursued towards foreign powers. The Senate's address concludes thus : "At a period so momentous in the affairs of nations, the temperate, just, and firm policy, that you have pursued in respect to foreign powers, has been eminently calculated to promote the great and essential interests of our country, and has created the fairest title to the public gratitude and thanks."

Such were the decisions of the executive and legislative councils of the United States upon "the then existing legal state of things." The right and the duty of the United States to be neutral, and to demand and insist upon the immunities of our situation as a neutral nation, is most emphatically pronounced by those whose powers and duties devolved upon them the high trust of maintaining the national faith, and

watching over the welfare of that generation, and they did so decide. That decision was thenceforth sustained and acted upon by both Houses of Congress during President Washington's and President Adams' administrations, down to the final ratification of the treaty of the 80th of November, 1800.

The views and policies of the French Republic, as declared by her accredited minister, corresponded with that of the United States in respect to the neutrality of the United States. The communication of citizen Genet, the minister of France, of the 28d May, 1793, to Mr. Jefferson, Secretary of State, so far from claiming from the United States an abandonment of their neutrality, announces the desire of France "to increase the prosperity and add to the happiness which she is pleased to see them enjoy." "The obstacles raised with intentions hostile to liberty, by the perfidious ministers of despotism, whose object was to stop the rapid progress of the commerce of the Americans, and the extension of their principles, exist no more. The French Republic, seeing in them but brothers, has opened to them, by the decrees now enclosed, all her ports in the two worlds ; has granted them all the favors which her own citizens enjoy in her vast possessions ; invited them to participate the benefits of the navigation, in granting to their vessels the same rights as to her own," and professed himself authorized to enter into a new compact.

In the progress of the discussions between the two Governments, the minister of the United States pressed the great advantages which France derived from the neutrality of the United States, in receiving supplies and carrying on her commerce. France was fully sensible of these advantages. She saw that her West India possessions could be more effectually supplied with provisions, and her goods in neutral bottoms more advantageously secured from the captures of her enemy, and her own vessels of war and private armed vessels as well as her merchantmen more conveniently sheltered and accommodated in the ports of the United States, as neutral, than as belligerent. The guaranty was never a subject of demand, or of complaint, or of indemnity. In the instructions of Mr. Randolph, Secretary of State, to Mr. Monroe, plenipotentiary to France, of the 10th June, 1794, the Secretary says : "From Mr. Genet and Fauchet we have uniformly learned that France did not desire us to depart from the neutrality, and it would have been unwise to have asked us to do otherwise : for our ports are open to her prizes while they are shut to those of Great Britain ; and supplies of grain could not be furnished to France with so much certainty, were we at war, as they can even now, notwithstanding the British instructions."

As late as the 11th of March, 1796, the Minister of Foreign Affairs, Ch. de la Croix, addressed to our minister in France a summary exposition of the complaints of the French Republic against the United States. The sub-

ject of the guarantee forms no part of that statement.

The complaints of the United States against France commenced in a decree of the 9th of May, 1793—in violation of the treaty of amity and commerce of 1778—which decree authorized French ships of war and privateers to stop and bring into the ports of the Republic neutral vessels laden with provisions belonging to neutrals, destined for enemy ports, or with merchandise belonging to enemies. Merchandise belonging to enemies to be good prize and confiscated for the benefit of the captors—the provisions belonging to neutrals to be paid for. Citizen Genet, the minister of France, granted military commissions to American citizens in the ports of the United States, armed and equipped vessels in our ports to cruise against nations at peace with the United States; exercised admiralty and maritime jurisdiction in condemning captured vessels brought into the ports of the United States—he threatened to appeal from the President to the people, and otherwise so disrespected the jurisdiction and authorities of the United States as to produce his recall by the French Republic at the request of the President. Without going into a tedious detail of French aggressions, it is sufficient for the present purpose to allude to the claims of American citizens as classified by our minister in France in 1794; and again as reported in 1797, in obedience to a resolution of the Senate, and communicated by the Secretary of State, Mr. Pickering, on the 28th February, 1798.

1st. Captures sanctioned by the decree of 1793, before stated.

2d. Condemnnations of vessels and cargoes under marine ordinances of France, contrary to the treaties between the two countries.

3d. Spoiliations and captures of American vessels at sea by French ships of war and privateers.

4th. For the detention of American vessels by the same embargo at Bordeaux.

5th. Seizure and forced sales of cargoes, and applying them to public use, without payment, or without adequate payments.

6th. Non-performance of contracts made by the agents of the Government for supplies.

7th. Non-payment of bills drawn, and debts contracted, by the agents of the Government in the West Indies.

The depredations at sea by the public and private armed vessels were continued under the sanction of the decrees of the French Directory; and it appears by the letter of Mr. Monroe, our minister at Paris, of the 16th of February, 1796, to Mr. Pickering, the Secretary of State, our Government was informed that the French Minister of Foreign Affairs had announced to him that the Directory of France considered the alliance as ceasing to exist from the moment our treaty of 1794, with Great Britain, was ratified. And on the 20th of February, 1796, the same minister again repeated to our minister, that, by the treaty of 1794 with Great

Britain, "ours with France was annulled."*

On the 7th July, 1798, an act was passed by the Congress of the United States, and approved by the President, entitled "An act to declare the treaties heretofore concluded with France no longer obligatory on the United States" [Here Mr. B. read that act, in the following words:]

"Whereas the treaties concluded between the United States and France have been repeatedly violated on the part of the French Government, and its just claims of the United States for reparation of the injuries so committed have been refused, and their attempts to negotiate an amicable adjustment of all complaints between the two nations have been repelled with indignity: and whereas, under authority of the French Government, there is yet pursued against the United States a system of predatory violence, infracting the said treaties, and hostile to the rights of a free and independent nation:

"Sec. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the United States are of right free and exonerated from the stipulations of the treaties, and of the consular convention, heretofore concluded between the United States and France; and that the same shall not henceforth be regarded as legally obligatory on the Government and citizens of the United States."

The facts recited in that act, of repeated infractions on the part of the French Government, refusal of demanded reparation, the indignities offered to our ministers authorized to negotiate, and of predatory violence, were notorious at that day, and are fully sustained by the diplomatic correspondence, from 1793 down to that time.

Connected with this state of our foreign affairs, about thirty acts were passed.

[Here Mr. Biss read the title and stated the object of each act.]

By force of these laws of the United States, and the decrees of France, the armed vessels of the United States were brought into collision with the armed vessels of France, both public and private. Hard-fought battles ensued. Public and private vessels were subdued, seized, libelled, and condemned as lawful prize to the captors; about eighty armed vessels of France were taken. A naval warfare was waged.

But it is said it did not have the effect of abrogating pre-existing treaties, or cancelling pre-existing claims for retributions or indemnities; because it was not a general war; because no war was declared; because the armaments and enactions on the part of the United States professed to be defensive, for the protection of the commerce of the United States. Yet it is true that this was war in fact; war after repeated demands and refusals of retributions for past injuries; after the refusal of France to receive our special envoy and minis-

* See American State Papers, by Gates and Benton, vol. 1, pp. 780, 781.

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French Spoliations prior to 1800.

[SENATE.]

ter plenipotentiary, Mr. Charles C. Pinckney, clothed with full powers to treat of all complaints on either side, after the commercial intercourse between the two countries had been interdicted by the United States; after the Minister of Foreign Affairs of France had announced to our minister at Paris, that the French Directory considered the treaty between the United States and France "as ceasing to exist," as "annihilated;" after the subsequent aggressions of France corresponded with that annunciation; and after the act of the Congress of the United States of the 7th of July, 1798, had declared the treaties theretofore concluded with France no longer obligatory on the United States.

It is true that the acts of 28th May, 1798, and 25th of June of that year, for protecting our commerce, confined captures, to be made by our armed vessels, to such vessels of France as had committed, or were hovering on our coast to commit depredations, or to the recapture of American vessels captured by French vessels. But the act of July 9th, 1798, (after the abrogation of the treaties was declared,) authorized the public and private armed vessels of the United States "to subdue, seize, and take, any armed French vessel within the jurisdictional limits of the United States, or elsewhere, on the high seas," without other qualification.

It is true that this fighting was not in pursuance of any formal declaration of war by either party. Yet the conflicts were again and oftentimes repeated by the authority of the public laws and decrees of the two countries. The laws of the United States authorized prizes, prisoners, and retaliations to be made of French vessels and upon Frenchmen.

According to these definitions of war, the state of affairs between the United States and France, from the 9th of July, 1798, to the 30th of September, 1800, was not a state of peace. The United States had sought, by negotiation, retribution for the past, and security against future aggressions, without success. To meet this state of affairs, the army and navy was increased; munitions of war had been provided. The preparations and demonstrations for forcible redress, were as formidable as the population and resources of the United States, at that time, would justify. The ships of war and private armed vessels, by authority of law, were instructed to subdue, seize, and take, the public and private armed vessels of France, and many battles upon the ocean ensued.

I do not contend that this was a general war, which put all the citizens of the United States in hostility with all the citizens of the French Republic. It was a qualified war—a maritime war; or, as designated in the language of the day, a *quasi* war.

I have traced the actual condition of affairs, with this particularity, not with intent to deduce the abrogation of the treaties of 1778 and consular convention of 1788, as the regular conse-

quence of war, but to impress more emphatically the posture of the two countries at the time the treaty of 1800 was negotiated.

The United States had aided their citizens in demanding retribution for spoliations upon their commerce; they had diligently, faithfully, and earnestly endeavored, by negotiation, to effect payment for injuries inflicted, and security against the future. France could not, or would not, make compensation. All that the importunity of the Government of the United States, backed by the preparations by sea and land, could effect for their citizens, was the treaty of the 30th September, 1800. These claims, proposed to be compensated by this bill, are the very causes of all the notes and preparations for war, and of this *quasi* war, to the 30th September, 1800.

President Washington, from 1793 to 1797, was unable to procure from France any satisfactory arrangement upon the subject of these spoliations.

President Adams pursued the subject diligently and faithfully unto the treaty of the 30th September, 1800. The State Papers show that, under both administrations, the negotiations were conducted with very great ability and force of argument.

A decent respect for the constituted authorities of my country, who negotiated and ratified that treaty, requires of me to say it was the best that could be obtained. The history of the state of affairs in France at that day, and review of the negotiation, a just confidence in the patriotism and judgment of my countrymen, who framed, approved, and ratified that treaty, assures me it was the best attainable. The choice of alternatives was then presented, to take such a treaty, or push on in that course of measures which was fast sweeping us into the vortex of European politics. A single progression from the *quasi* war would have plunged us into the whirlpool of the continental war.

Those who at that day filled the departments of our Government, to whom the constitution had confided the powers to conduct our foreign intercourse, and to maintain our rights and interests against foreign nations, did accede to this treaty. They had an intimate knowledge of the passing events. To them it belonged to provide for the interests and happiness of that generation. I will not sit in judgment to condemn their conduct, overhaul their proceedings, and reverse their decision, after the lapse of a third of a century. If it is necessary to good order and the well-being of society that the judicial decisions of the country shall stand, it is not less so to have some stability in the political decisions of the Government upon matters confessedly belonging to the discretion and powers of the executive and legislative departments. Stability in the action of Government is necessary to confidence, good order, and human happiness.

In reviewing the conduct of the American Government from 1793 to the final ratification

of the treaty of 1800, it seems to me that the duty of endeavoring to protect the commerce of the Union; of asserting the rights, public and individual, and maintaining them against foreign powers, were duly respected and observed. The means of fulfilling that duty were prudently selected, diligently prosecuted, and faithfully conducted. If those means did not command the full measure of protection and indemnity for injuries inflicted by foreign powers, the fault is not with our Government. Our negotiations were conducted with very great ability. Our military and naval establishments were increased, munitions of war were provided, the physical powers of the country were put in requisition, and the sinews of war were provided. If our rights were not completely and fully protected, if full compensation to our citizens for wrongs committed was not obtained, the failure must be attributed to the peculiar temper of the times, to the gigantic struggles and peculiar character and desolations of this wide-spread warfare. If the efforts of the American Government did not obtain success, they deserved it. If our negotiators, strengthened by our preparations by sea and land, by non-intercourse, by the maritime war, by the thunders of our cannon, with the capture of eighty-three French armed vessels, could not compel France to terms satisfactory, in all respects, to our desires, there is no just cause of complaint against our Government as having done too little; the public sentiment of that day was, the Government had done too much. The United States had proceeded so far in prosecution of satisfaction for these claims, and for protecting our maritime rights, that a single advance beyond would have plunged them into the open and general war then raging upon the European continent and upon the ocean. All Europe was convulsed; republican France, with gigantic strength, invigorated by a devotion to liberty, was contending with the coalition of the most formidable powers and potentates. In this mighty warfare ancient laws and usages respecting the rights of neutrals were disregarded by the belligerents: new principles of maritime law were proclaimed. Great Britain and France each made war upon the rights of neutrals, for the purpose of weakening the resources of the adversary; even provisions, belonging to neutrals, on board of neutral vessels, were treated as articles contraband of war, under a pretence of starving thirty millions of Frenchmen into submission. The duration and issue of the war was then beyond the ken of mortals. It only terminated with the battle of Waterloo. The soundest policy, the best interests of the United States, public sentiment, forbid them from proceeding to an open and general war, which would have endangered even our Union and independence. The councils of the United States preferred the treaty of 1800 to the hazards of the war, and ratified it, which, putting an end to the *quasi*

war, enabled them to assume a position of strict and unqualified neutrality.

This *quasi* war had given rise to direct taxes, excises, and loans, to increased armies and navies. The whole community were made to bear large contributions to maintain our neutral rights, including redress for injuries which are the objects of this bill. Having done so much, the obligations of duty and regard for the private rights of our citizens involved in those measures were fulfilled. Individual rights and interests are held in subjection to the common good. No citizen has the right to require his Government to prosecute his claims upon a foreign Government to open war. That is a question of policy and regard for the general welfare. The extremities of the commonwealth are unanswerable exceptions to all sorts of private rights and privileges. It is a contradiction to pretend to be a citizen under the protection of a Government, and yet to claim a right wholly inconsistent with the common safety.

Whatever losses these claimants have sustained, they flow from the injuries inflicted by a foreign Government. The principles of moral jurisprudence and politics make a distinction between the rights of a citizen when his property is taken by his own, and when taken by a foreign Government. In the first case, the citizen has a perfect right to demand, and have, of his own Government, compensation for the loss; and this obligation subsists until payment is made. Nor is the State acquit by present inability; whenever she possesses the means, the claim must be respected and paid. But for damages caused by a foreign Power, no right accrues to the citizen to demand and have compensation from his own Government. In such case the sovereign ought to interpose, as far as the situation of affairs, and the common interests and safety will permit, to aid the citizen in demanding and receiving satisfaction from such foreign Power. The Government ought to show an equitable regard for such suffering of the citizen; but the extent to which that regard shall be indulged is a question of sound policy, to be judged by the State. The right of the citizen in this behalf, belongs to the class of imperfect obligations.

When we consider the conduct of the Government from 1793 down to the ratification of the treaty of 1800—the condition of the United States, (not then recovered from the exhaustion of the Revolution,) the assiduity and good faith with which these claims were pressed upon the consideration of the French Government, the want of success, the cause of that *quasi* war, the great expenditures of the Government, the dangers of being drawn into the vortex of the European war as a belligerent, the great losses to flow from the community from persisting, and the prospect then presented to the view of that generation—we may well conclude that the Government would have been well justified in abandoning these claims for the purpose of

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Amendment of the Constitution.

[SENATE.]

extricating the community from a perilous condition.

It cannot be admitted that the Government is bound to be the insurer of the commercial adventures of its citizens against the acts of foreign Governments; that private claims upon foreign powers must be pursued by war *ad internecionem reipublica*, or the citizen be compensated out of the public treasury at home, if the foreign aggressor cannot be compelled to make retribution. The community is bound to take care that no injury arises to the citizen by the ill conduct of the Government; but the public is not bound for the ill conduct of a foreign power.

At this day we are called upon to investigate and liquidate claims, all of thirty-four years, and some of forty years' standing, founded upon the aggressions of a foreign Government. These claims are to be investigated upon *ex parte* evidence taken by the claimants, interested to omit all facts bearing against them. What portion of these claims are just, what part have been paid in France, what were the circumstances of the transactions, must now be very dimly seen. And the United States and their agents, having had no act or part in the wrongs and injuries upon which these claims depend, are left to the tender mercies of the claimants themselves as to the amount of damages. Time, which secures and protects individuals from State demands upon their own transactions, does but swell the amount to be charged to the United States upon foreign aggressions.

In conclusion, I feel justified to say that the treaties of 1778 and of 1788 were not subsisting obligations upon the United States after the act of 7th July, 1798. By that act, founded upon the facts therein recited, they were abrogated; that the Congress were competent so to declare; that no *casus fœderis* had occurred for the purpose of calling the United States to execute the guarantee in the treaty of alliance; that France never demanded the execution of the guarantee; that no indemnity was due on that account; that the United States had performed to the full their duty of endeavoring to protect their citizens injured by foreign aggressions; that the United States, by the retrenchment of the second article of the treaty of 1800, did not change the existing state of things arising upon the whole treaty—the only effect was to expunge the promise of future negotiation; that no present gain did accrue to the United States by the treaty of 1800—the effects were to prevent greater loss, to extricate the country from a perilous situation, to save the further expenditure of treasure in a *quasi* war which promised no substantial benefit to the public, nor to these claimants; that the United States were not bound to prosecute these claims further, and would have been well justified in sacrificing them to terminate the *quasi* war, which had been caused in part by the desire of the Government to obtain retribution for them; that the political decisions of the Government of the

United States upon the questions involved, ought to stand unimpeached and approved.

Mr. SHEPLEY moved to amend the bill, so as to make the appropriation of five millions, in full discharge of the claims.

Mr. WEBSTER had no objection to the amendment. The amount of five millions was not arbitrary; in adopting it as the amount, the committee had proceeded on the ground of a comparison of the cases with those embraced under the Florida treaty and the late treaty with France.

The amendment was agreed to.

WEDNESDAY, JANUARY 14.

French Relations.

The Senate proceeded to the special order, being the report and resolutions of the Committee of Foreign Affairs on the subject of our relations with France.

The report of the committee concludes with the following resolution:

Resolved, That it is inexpedient, at this time, to pass any law vesting in the President authority for making reprisals upon French property, in the contingency of provision not being made for paying to the United States the indemnity stipulated by the treaty of 1831, during the present session of the French Chambers.

The question being upon agreeing to the resolution as reported—

[A conversational debate took place, in which Messrs. Clay, King of Georgia, Webster, Buchanan, Cuthbert of Georgia, King of Alabama, Leigh, John M. Clayton, Mangum, and Tallmadge, took part; and with great unanimity of sentiment.]

The question was then taken on the resolution, modified to read as follows:

Resolved, That it is inexpedient, at present, to adopt any legislative measures in regard to the state of affairs between the United States and France;

And decided unanimously in the affirmative, by yeas and nays, as follows:

YEAS.—Messrs. Bell, Benton, Bibb, Black, Buchanan, Brown, Calhoun, Clay, Clayton, Cuthbert, Ewing, Frelinghuysen, Grundy, Hendricks, Hill, Kane, Kent, King of Alabama, King of Georgia, Knight, Leigh, Linn, McKean, Mangum, Moore, Morris, Naudain, Poindexter, Porter, Prentiss, Preston, Robbins, Robinson, Shepley, Silsbee, Smith, Swift, Tallmadge, Tipton, Tomlinson, Tyler, Waggaman, Webster, White, Wright—45.

The Senate then adjourned.

THURSDAY, JANUARY 15.

Amendment of the Constitution in the Election of President and Vice President.

The joint resolution proposing an amendment to the Constitution of the United States in rela-

tion to the election of President and Vice President of the United States was taken up.

Mr. BENTON said the amendment proposed to change the Constitution of the United States, so as to make the election of President and Vice President directly by the people. The proposition which he had now offered was the same as that which he had had the honor to make at different times for ten years past.

The effect of the amendment was,

1. That there should be a direct vote given for President and Vice President.
2. To abolish the general ticket system, and introduce the district system. And
3. To prevent the election from going to the House of Representatives.

These were the principles of the resolution.

Mr. POINDEXTER said the subject had been so long before the Senate, and had attracted such universal attention throughout the country, that he presumed it was now well understood. For himself, he should be gratified if a vote could be taken upon it now, though he had formerly made up his mind, for reasons which he should not now urge upon the attention of the Senate, that the amendment proposed should first be laid before the State Legislatures for their examination.

Mr. BUCHANAN observed that he was perhaps differently situated from any other honorable Senator, he having been here but a few days. He did not feel the propriety of giving his vote on the question now, and he trusted that, according to the polite intimation of the Senator from Missouri, the subject would be laid upon the table for a few days. If that course were taken, he should be able to vote then one way or the other.

Mr. B. then moved that the resolution be laid upon the table. The motion was agreed to.

Presents from Morocco.

The joint resolution authorizing the sale of a lion and two horses, presented to the President of the United States by the Emperor of Morocco, was taken up and considered as in Committee of the Whole.

Mr. PORTER moved to amend the resolution by directing the sale to take place on the last Saturday of February, 1835.

This amendment and others were agreed to, and the resolution ordered to be reported for a third reading.

[As the resolution now reads, it provides that the two Arabian horses, presented by the Emperor of Morocco to the President of the United States, shall be sold at public auction, at the City of Washington, on the last Saturday of February, 1835; and that the lion presented by the same potentate shall be presented to such suitable institution, person or persons, as the President may designate.]

FRIDAY, January 23.

Mr. KENT presented the credentials of the honorable ROBERT H. GOLDSBOROUGH, elected a Senator from the State of Maryland, to supply the vacancy occasioned by the resignation of the honorable EZEKIEL F. CHAMBERS.

Mr. GOLDSBOROUGH appeared, and the usual oath to support the Constitution of the United States being administered to him by the Vice-President, Mr. G. took his seat as a Senator of the United States.

WEDNESDAY, January 28.

Alabama Expunging Resolutions.

Mr. KING presented the preamble and joint resolutions of the Legislature of the State of Alabama, instructing their Senators in Congress to use their untiring efforts to cause to be expunged from the journals of the Senate the resolution of the last session, relative to the removal of the public deposits from the Bank of the United States.

The resolutions having been read,

Mr. OLAY said, before any order was taken for laying these resolutions on the table, resolutions which appeared to be addressed to the Senators from Alabama, and in the nature of instructions to them what they were required by the Legislature to do, he should be glad to know, from the honorable gentleman who had presented them, whether it was his intention now, or on any future occasion, to submit a proposition to the Senate to expunge from the journal of the Senate the resolution to which those resolutions referred?

Mr. BENTON recalled to the Senate the time when the resolution, to which the Alabama resolutions referred, was adopted by the Senate. He had then, in his place, given immediate notice that he should commence a series of motions for the purpose of expunging the resolutions from the journals. He had then made use of the word expunge in contradistinction to the word repeal, or the word reverse, because it was his opinion then, and that opinion had been confirmed by all his subsequent reflection, that repeal or reversal of the resolution would not do adequate justice. To do that would require a complete expurgation of the journals. It would require that process which is denominated expunging, by which, to the present and to all future times, it would be indicated that that had been placed upon the journals which should never have gone there. He had given that notice, after serious reflection, that it might be seen that the Senate was trampling the Constitution of the United States under feet; and not only that, but also the very forms, to say nothing of the substance, of all criminal justice.

He had given this notice in obedience to the dictates of his bosom, which were afterwards sustained by the decision of his head, without

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consultation with any other person, but after conference only with himself and his God. To a single human being he had said that he should do it, but he had not consulted with any one. In the ordinary routine of business, no one was more ready to consult with his friends, and to defer to their opinions, than he was; but there were some occasions on which he held counsel with no man, but took his own course, without regard to consequences. On this occasion he had counselled with no being on earth, for he had made no calculation as to consequences. It would have been a matter of entire indifference with him, had the whole Senate risen as one man, and declared a determination to give an unanimous vote against him. It would have mattered nothing. He would not have deferred to any human being. Actuated by these feelings, he had given notice of his intention in the month of May; and in obedience to that determination he had, on the last day of the session, laid his resolution on the table, in order to keep the matter alive.

This was his answer to the question which had been proposed.

Mr. KING of Alabama was surprised to hear the question of the honorable Senator from Kentucky, as he did not expect such an inquiry: for he had supposed it was well understood by every member of the Senate what his sentiments were in regard to the right of instruction. The Legislature of Alabama had instructed him to pursue a particular course and he should obey their instructions. With regard to the resolution to which the Legislature alluded, he could merely say that he voted against it at the time it was adopted by the Senate. His opinion as to it was then, as well as now, perfectly understood. If the gentleman from Missouri (Mr. BENTON) declined bringing the subject forward relative to the propriety of expunging the resolution in question from the journal of the Senate, he himself should, at some proper time, do so, and also say something on the great and important question as to the right of instruction. Now, that might be admitted in its fullest extent. He held his place there, subject to the control of the Legislature of Alabama, and whenever their instructions reached him, he should be governed by them. He made this statement without entering into the consideration of the propriety or impropriety of Senators exercising their own judgment as to the course they deemed most proper to pursue. For himself, never having doubted the right of a Legislature to instruct their Senators in Congress, he should consider himself culpable if he did not carry their wishes into effect, when properly expressed. And he had hoped there would have been no expression of the Senate, at this time, as he was not disposed to enter into a discussion then, for particular reasons, which it was not necessary he should state.

As to the propriety of acting on the subject then, that would depend upon the opinions of

gentlemen as to the importance, the great importance, of having the journal of the Senate freed from what many supposed to be an unconstitutional act of the Senate, although the majority of it thought otherwise. He would now say that, if no one should bring forward a proposition to get the resolution expunged, he, feeling himself bound to obey the opinions of the Legislature, should do so, and would vote for it. If no precedent was to be found for such an act of the Senate, he should most unhesitatingly vote for expunging the resolution from the journal of the Senate, in such manner as should be justified by precedent.

French Spoliations.

On motion of Mr. WEBSTER, the Senate proceeded to consider the bill making indemnity for French spoliations prior to 1800.

The yeas and nays being ordered on the engrossment of the bill, it was decided in the affirmative.

YEAS.—Messrs. Bell, Buchanan, Clay, Clayton, Ewing, Frelinghuysen, Goldsborough, Kent, Knight, McKean, Moore, Naudain, Poindexter, Porter, Prentiss, Preston, Robbins, Shepley, Silsbee, Smith, Southard, Swift, Tomlinson, Waggaman, Webster—25.

NAYS.—Messrs. Benton, Bibb, Black, Brown, Calhoun, Cuthbert, Grundy, Hendricks, Hill, Kane, King of Alabama, King of Georgia, Leigh, Linn, Mangum, Morris, Robinson, Tallmadge, Tyler, White, Wright—21.

THURSDAY, January 29.

Death of Warren R. Davis.

At this moment a Message was received from the House of Representatives, by Mr. Franklin, their Clerk, announcing the death of the honorable WARREN R. DAVIS, a member of that House from the State of South Carolina, and informing the Senate that the funeral would take place, from the hall of the House of Representatives, to-morrow, at twelve o'clock.

The Message having been taken up for consideration,

Mr. CALHOUN rose and said that, in rising to move the ordinary resolution on this melancholy occasion, he felt it to be due to his own feelings, as well as to the memory of the deceased, to make a few preliminary observations commemorative of his many excellent qualities. I knew the deceased (said Mr. C.) long and intimately. He was my near neighbor and personal and political friend; and we stood closely connected by ties of affinity and the strictest friendship; and I cannot but say that, in passing through life, I have rarely known an individual more richly endowed. His intellect was of the highest order, clear, rapid and comprehensive. Combined with a wonderful facility of expressing and illustrating his ideas, both in conversation and in debate, he possessed a rich imagination, a pure, and delicate taste a gentle and

sportive wit, and an uninterrupted flow of good humor, that made him the delight of every circle in which he mingled. Nor were his moral qualities less deserving of respect and admiration. He was generous, brave, patriotic, independent, and disinterested almost to a fault. For the truth of this picture, that it is not the exaggerated effusion of friendship, perhaps I can appeal to many a hearer around me who knew him well. Such was WARREN RANSOM DAVIS. He is now no more. He departed this life at 7 o'clock this morning. I witnessed the departing scene. When my most excellent friend the Senator from Missouri, (Doctor LICK,) announced to him his approaching fate, though the sad event was unexpected to him, he received the information with fortitude and firmness, while he thanked him for his kind attentions. All his desire was that he might depart in peace. His wishes were acceded to. This communication to him was made immediately after the adjournment of the Senate yesterday; at one o'clock in the morning he fell into a gentle slumber, from which he never awoke. He departed without a struggle or a groan, lost for ever to his friends and his country.

Mr. C. then offered the following resolution, which was read, and unanimously adopted:

Resolved, That the Senate will attend the funeral of the honorable WARREN R. DAVIS, late a member of the House of Representatives from the State of South Carolina, at the hour of 12 o'clock to-morrow, and, as a testimony of respect for the memory of the deceased, they will go into mourning by wearing crape round the left arm for thirty days.

On motion of Mr. PRESTON, as a further mark of respect to the memory of the deceased,
The Senate then adjourned.

MONDAY, February 2.

Attempted Assassination of President Jackson.

Mr. CALHOUN rose and requested the Secretary to read the paragraph from a newspaper which he sent to the table. The Secretary then read from the *Globe* of Saturday the following paragraph:

"Whether Lawrence has caught, in his visits to the Capitol, the mania which has prevailed during the two last sessions in the Senate; whether he has become infatuated with the chimeras which have troubled the brains of the disappointed and ambitious orators who have depicted the President as a Cæsar who ought to have a Brutus—as a Cromwell—a Nero—a Tiberius—we know not. If no secret conspiracy has prompted the perpetration of the horrid deed, we think it not improbable that some delusion of intellect has grown out of his visits to the Capitol; and that, hearing despotism and every horrible mischief threatened to the Republic, and revolution and all its train of calamities imputed as the necessary consequence of the President's measures, it may be that the infatuated man fancied he had reasons to become his country's avenger. If he had heard and believed Mr. CALHOUN's speech the day

before yesterday, he would have found in it ample justification of his attempt on one who was represented as the cause of the most dreadful calamities to the nation, as one who made perfect rottenness and corruption to pervade the vitals of the Government, inasmuch that it was scarcely worth preserving, if it were possible."

Mr. CALHOUN rose to make a few remarks, not so much in reference to himself, for that was of little importance, as on the political bearing of the paragraph from the official Government paper, which had just been read to the Senate. There were some things, which, taken in themselves, were of so little importance as not to be entitled to notice, but which, standing in connection with other matters, were frequently of great importance, and demanded attention. Whatever might be the character of the paper (the *Globe*) from which the paragraph just read had been taken; however low, however degraded its character might be, it was yet known to be the organ of the Executive will; and that it was sustained, pampered by, and dependent upon, that branch of the Government; and in commenting on a paragraph like the present in which the Executive was personally concerned, it was not an unfair presumption to conclude that it had had his sanction, had been authorized by him. To pass over the personal insinuations, which, as he had observed, were unworthy of notice, he (Mr. C.) would say a few words on the new political principle set forth in the paragraph. It was impossible to read the article, and not see that it went on the ground, that whosoever condemns what he believes conscientiously to be the abuses and corruptions of this Government, was to be held up in the light of an instigator of assassination; and, that no uncertainty on this point might be left on the mind of the reader, the article referred to a particular transaction in which he (Mr. C.) was personally concerned. He would not condescend to defend himself in relation to the matters contained in the paragraph that had been read; they needed no defence. What were the facts? The Senate were in debate on the Post Office reports. The Post Office, it was acknowledged on all hands, stood convicted of enormous abuses, not to say corruptions. He had risen, in his place, to comment generally on the abuses thus exhibited; he had made no personal allusions whatsoever. He spoke of the corruptions of the times, and of them mainly; though this he did say, that the evil was not so much to be attributed to any defect in the working of the machinery as in the administration itself. Yet these general denunciations, in these broad terms, are asserted by the Government official here, as warranting an individual to make this attempt at assassination. Could he have wontonly said that which would have authorized assassination, he would be little better than an assassin. What! to hold up abuses to instigate assassination! To what was the authority of this body reduced, or attempted to be reduced? According to

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the new doctrines, the Senate was to look silently on when these corruptions and abuses were passing beneath their eyes, because, forsooth, they might ultimately be called on to express their opinions in their judicial character.

This body, then, dare not express opinions, and, if they do express them, they may be called on to expunge their recorded sentiments from the journal of the Senate. Then, what next? No individual Senator is to be permitted to express any opinion as to a particular individual, lest he be held up to the world as the instigator of assassination! General denunciations of misconduct, corruptions or abuses, were to be held up as indicating assassination! Could they mistake the tendency of this? Did they not see, clearly as the light of heaven, the march to irresponsible power? Did it not confirm what he (Mr. C.) observed but the other day, that a stage had been reached in our political affairs that must result in reformation or revolution? He saw around him, in the ranks of the administration, many old friends and acquaintances, whose patriotism, and whose attachment to the institutions of their country could not be mistaken. He asked them to look, to see what we are come to, to see what was the melancholy result of this state of things. The degradation of parties, and the consequent growth of an irresponsible power. He understood the crisis to which the country had arrived. He knew the danger to be incurred by exposing abuses existing in the executive branch of the Government. He asked no favors—he was no candidate. He desired no office. He would say, as an honest, conscientious man, who loved the institutions of his country, that he would do his duty in spite of menace, come from what quarter it would, or in spite of fate.

WEDNESDAY, February 4.

Indian Treaties—Whether Treaties within the meaning of the constitution, and supreme over the laws of the States?

[Mr. CLAY presented the memorial of certain Cherokees living in the State of Georgia, and wishing to remove to the west of the Mississippi River, and praying Congress to provide them a permanent home there, safe from interference, or intrusion from white people. In presenting the memorial, Mr. C. alluded to the legislation of the State of Georgia, which had assumed jurisdiction over the Indians within her limits, and subjected them to her laws judicially administered. This brought up the question of the supremacy of Indian treaties; and whether they were included in the class of treaties declared by the constitution to be supreme laws of the land, and binding on the States?]

Mr. WHITE: The object of the memorial is one I heartily approve. The memorialists are a portion of the Cherokees, residing within the

limits of the State of Georgia. They wish to emigrate west of the river Mississippi, and there have a country assigned to them, where they can live under a Government of their own choice, preserve as far as they may think right their own customs, exercise their privileges in endeavoring to promote the civilization of their own people, and having them instructed in the doctrines of Christianity. They wish the United States to furnish them a country to go to, to be at the expense of their removal, and to give them suitable guarantees that they shall never be disturbed in the country to which they may emigrate.

If any additional legislation is found necessary upon this subject, it will give me sincere pleasure to afford my aid in all suitable enactments.

But, in presenting the memorial and resolutions, the honorable Senator has gone into a discussion of the powers of the States, and the manner in which their powers have been exerted over the Indians.

I do not believe any benefit is likely to result to the people of the United States, or to the Indians, from such discussions; but as the subject has been introduced, it is due to the States that at least some of the grounds upon which they have acted should be brought to the notice of the Senate.

What was the condition of the Indians, within the limits of the States, at the close of the revolutionary war?

The people of the United States declared their independence, the revolutionary war in maintenance of that declaration, terminated in a treaty of peace in 1783. The limits and bounds of the States are described in that treaty. Each of the States, within its territorial limits, believed it was free, sovereign, and independent, and that a majority had a right to prescribe whatever rules they pleased for the government of every person, of every age, sex, and color, within their acknowledged boundaries.

Each of these States believe they still possess all these powers, except so far as they have expressly granted them to the federal Government, for the good of the whole.

The articles of confederation gave to the federal Government power to regulate trade and intercourse with the Indians, but contained an express proviso that Congress shall not interfere with the territorial rights of the States.

The first treaty with the Cherokees was made in 1785, and although the articles referred to were then in force, the lands allotted to the Indians included a large portion of the territory of North Carolina.

That State was not inattentive to her rights. She had an agent present when the treaty was negotiated, and he there entered the solemn protest of his State, more than once, against this exercise of federal power.

These protests are still on record, and can yet be produced, at any time the Senate may desire.

The next treaty with the Cherokees was after the present constitution was adopted.

In the mean time, North Carolina had been urged to cede her western lands to the United States, and one motive for this was, that the United States would be the better enabled to regulate their affairs with the Cherokees, it being then believed they all, or nearly all, lived on those lands.

In 1789, North Carolina, yielding to these solicitations, made the cession.

The vacant lands, after satisfying all existing claims against North Carolina, were the property of the United States, who also had the sole power of legislation. The United States, thus owning the vacant soil, and having the entire sovereignty and jurisdiction, and still believing the Cherokees resident upon this territory, made the treaty of Holston, in 1791.

After agreeing upon the boundary between the whites and the Indians, there is an express guarantee to the Indians of their lands. This, if my memory serves me, is the first guarantee to these Indians. This guarantee was inserted, not by the mere motion of our commissioner, but by the express instruction of President Washington. The reason of this is obvious to me. General Washington believed, at that day, the country guaranteed to the Indians was a tract over which the United States alone had the sovereignty and jurisdiction, and that they were the owners of the soil; that neither the sovereign nor territorial rights of any State were invaded by such a stipulation, and that it would be the means of preventing future encroachments upon the Indians.

We now know by our own executive journal, kept secret until a few years past, that when the first agreements with Indians were made, after the adoption of the constitution, the President himself doubted whether they ought to go through the forms prescribed for treaties; he sent a message to the Senate; it doubted, but eventually seems to have acted upon the opinion that the formal sanction of two-thirds of the Senators present, required to ratify treaties, would be a safe rule as to these compacts or agreements, and the course then adopted has been pursued ever since.

A further illustration of General Washington's views, as to the rights of States, may be given by his conduct in relation to lands within the limits of New York, which were attempted to be secured to Indians by treaty. He condemned this course on the part of the agent, and made it the subject of a special letter now on record.

The tract of country ceded by the State of North Carolina to the United States in 1789, and which was a territory in 1791, when the Holston treaty was made, continued to be a territory till February, 1796, when the people residing upon it framed a constitution, and afterwards were admitted into the Union.

In the treaties with the Cherokees subsequent to that period, (and there were many of them, as has been correctly said by the honorable Senator from Kentucky,) the United States seem to have lost sight of the distinction between

their power over a country, of which they had both the right of soil and the jurisdiction, and one where the States had the right of soil and jurisdiction, and to have continued the guarantee as inserted in the treaty of 1791.

The States, however, do not acquiesce in the exercise of federal power. The same opinion entertained by North Carolina in 1786 is entertained and acted upon now.

They maintain that they are sovereign and independent communities, within the whole of their chartered limits, upon all points where they have not transferred their powers to the federal Government.

They maintain that these agreements, with a portion of their own population, are not treaties, within the meaning of the constitution; and they deny that they have ever vested in the federal Government the power, by treaty or otherwise, with any portion of the people within their limits, no matter whether the people are French, German, or Indians, to take from the State one acre of its territory and transfer it to any other people whatever.

They maintain that each State has the right, independently of the federal and all other Governments, to enact such laws for the government of their whole population as, in the wisdom of their own Legislatures, may seem best suited to the interests of all; and that, in the exercise of this power, none out of their limits has the right to interfere.

If the States are right in the operation of these powers, it must clearly follow that they alone have the power to judge whether their laws are adapted to the condition and wants of their people.

Whether the States are correct in the assertion and maintenance of these rights and powers or not, they think they are, and many others think with them. They have acted upon them, and will continue to do so, as I firmly believe. Georgia has extended her laws over her whole limits. Tennessee has, to some purposes, done the same thing; and so has North Carolina and Alabama.

How, then, are these States to be induced to rescind or repeal these laws? Suppose the United States to apply to them for the repeal; they will answer, their laws are approved by their people; they had the power to enact them, and they will not repeal them. What then? Are the United States to apply force to compel the repeal? If they do, and such force is met by an opposing force from the States, we then have presented to our view the most horrid of all spectacles—armed strife between brothers; and, in the midst of it, what becomes of the red men for whose rights the war is waged? They are swept from this state of existence. When the war terminates, there will be no Indians to be protected by the United States, or by these States individually.

The time has arrived when we must all speak out plainly as we think. These people, if they remain where they are, must submit to the laws

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of the respective States. They cannot exist in the States as a separate and distinct community, governed by their own customs and laws. Some of them are civilized and enlightened; they will make useful and respectable members of any community. They may still remain where they are if they choose. But that is not the condition of the class of the Indian population. They are poor, ignorant, and uninformed.

Residing where they now do, certain misery and ruin await them. If they will remove beyond the Mississippi, out of our States and organized Territories, they may be preserved. There they may progress in that civilization which has commenced; they can, as freemen, have a government of their own choice; their interests can be promoted and their rights protected by the United States, without collision with any State. Who now doubts that it is their interest to do so? Few men can doubt it who will take pains to acquire correct information, and then duly consider the subject. I believe the time has nearly arrived, and will certainly soon have arrived, when there will be but one opinion upon this subject throughout our country.

The policy of inducing our Indians to remove west of the Mississippi did not originate with this administration. As early, at all events, as 1804, it was the policy of Mr. Jefferson. It has been the policy of every succeeding administration; and, during the last administration, it had, in the then Secretary of War, one of its ablest advocates. The great distinction between this and prior administrations consists in the present having succeeded to a much greater extent in carrying into effect what all, from the time of Mr. Jefferson, desired to accomplish.

The honorable Senator from Kentucky thinks, as the State of Georgia has shut her courts against these people, we ought to open those of the United States to them. And, if we can, let me ask, Mr. President, of what practical benefit will such a provision be? Useless. Encourage a poor Indian, living surrounded by whites unfriendly to him, to commence suit in the federal circuit court, and then follow it here to the Supreme Court, to assert his title to 160 or to 640 acres of land, and, by the time the cause is decided, he and his family will have starved to death.

Instead of this, let us encourage them, by all the means in our power, to remove. Every day they remain the means of the United States to furnish them comfortable homes, west of the Mississippi, are lessening. Other tribes are going and getting their choice of the country. Let those be encouraged to remove speedily; provide funds for their removal, for their comfortable support for a season. Furnish them a permanent home, guarantee it by all the solemnities which can be deemed necessary, and then faithfully observe this guarantee.

Upon these points, if additional legislation is found to be proper, I am willing to go to any

extent which may be deemed necessary, and which is not inconsistent with what is due to the interests of the great body of our community.

Mr. BENTON rose, not for the purpose of taking part in the little discussion going on, but of calling up a voice far more powerful than his own—that of Mr. Jefferson. The gentleman from Georgia (Mr. CUTHBERT) had well drawn the distinction between arrangements made with the Indian tribes under our protection, and treaties made with foreign sovereigns. It was very clear that those things called treaties with the Indians were not treaties recognized by the constitution of the United States. This was the ground also taken by the Senator from Tennessee, originating with General Washington, when he had doubts whether he could with propriety communicate such treaties to the Senate of the United States. It was true that the vote on them was taken in the usual form prescribed in the constitution for ratifying a treaty with a foreign power—that is, by a majority of two-thirds; but this simple circumstance could not possibly alter their nature. When the word treaty was put in the constitution, that treaty only was meant which was known to the laws of nations. In the first place, it was a treaty that must be made with a foreign nation; and, in the second place, it must be with a nation that had the power to contract a treaty. Were these treaties made with the Indian tribes, such as were recognized by writers on national law? He denied that it was permitted to statesmen to take such shallow views of a subject so exalted as treaties between two sovereign powers. How could these treaties with the Indians residing within the limits of a sovereign and independent State be considered in the light of treaties recognized by the constitution? Was it to be supposed that one of the States of this Union would ever have put it into the power of the federal Government to barter away a portion of her territory? Look at the wandering bands of the Sioux, Kickapoos, Sacs, and Foxes, with whom we have made similar treaties, and who do not possess even a blanket. Were they nations with whom treaties could be made under the treaty-making power given by the constitution? Can we, asked Mr. B., make treaties which set at defiance the constitution and laws, by giving away the territory, and interfering with the internal policy of a sovereign and independent State? It was a great and vital error of those judges who had declared these arrangements with the Indians to be the same things as the treaties with foreign nations, that the federal Government can make under the forms prescribed in the constitution. It was a great error to suppose that a treaty made with the Yancton band of the Sioux (so poor, so miserable, and so destitute, that there is not a blanket in the tribe, but they must protect themselves from the inclemency of the season with a buffalo robe) was the same as that made with a foreign and independent nation. Let it

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be recollected that the same arrangement made with the southern Indians, misnamed a treaty, may be made with the miserable and degraded Yancion band of the Sioux; and then let gentlemen say whether, by any stretch of imagination or language, these arrangements can be called treaties under the treaty-making power conferred by the constitution, and described by all the writers on national law. He begged pardon of the Senate for detaining them while he said these few words. His only purpose in rising was to call to their attention the doctrines of Mr. Jefferson on this subject; and without further remark he would proceed to read a few sentences on the treaty-making power.

"To what subjects this power extends has not been defined in detail by the constitution; nor are we entirely agreed among ourselves. 1. It is admitted that it must concern the foreign nation, party to the contract, or it would be a mere nullity, *res inter nos alios acta*. 2. By the general power to make treaties the constitution must have intended to comprehend only those subjects which are usually regulated by treaty, and cannot be otherwise regulated. 3. It must have meant to except out of these the rights reserved to the States; for surely the President and Senate cannot do, by treaty, what the whole Government is interdicted from doing in any way."

The purpose for which he had risen was to make the language of Mr. Jefferson known to the very respectable delegation of the Cherokees, who were then listening to the debate. He had known many of the Cherokees well, had enjoyed their hospitality, could bear testimony to the moral worth and excellent character of many of the nation; and his most anxious wish was to see the whole of them removed to a country where they could live happily in the enjoyment of their own laws and customs, undisturbed by the neighborhood of the whites. He wished, also, to make them understand that they were deluding themselves when they supposed that arrangements made with their tribe could be properly considered treaties, as known to the constitution, or that they could possibly exist as an independent community within the limits of a sovereign State.

Mr. CLAY said: The gentleman from Tennessee (Mr. WHITE) had remarked that they were all unconstitutional treaties; that they had no binding force as treaties; that General Washington was mistaken; that every succeeding administration was mistaken; that General Jackson himself was mistaken, in 1817, in regard to these treaties. Now, if they gave the argument of the honorable Senator from Tennessee its full force, what was the consequence? What did he (Mr. C.) offer? He said, merely to open the question to the court. If they had no validity, if the question which was sent to the Judiciary did not rest upon treaties, they could vindicate no rights under them. Why had Georgia, if she believed there were no treaties, made provisions in her late act to which he had referred? Why shut out the

rights of the Indians under the treaty? Why, if she was convinced of the unconstitutionality of the treaties, did she not allow them to be submitted to the federal Judiciary, which was bound to declare that they were not obligatory and binding, if unconstitutional? Why has she studiously precluded the possibility of a review in the Supreme Court of the decisions of the local tribunals? But the gentleman had told the Senate that the treaty of 1791 was the first that guaranteed to the Cherokees their lands, and that President Washington doubted whether it was necessary to submit it to the Senate. It might be true, at the commencement of the Government, when every thing was new and unfixed, that there were doubts; but General Washington decided that it was a treaty, and laid it, with his doubts, before the Senate, who decided them, and the treaty was ratified by and with the consent of the Senate. And from that day those doubts have remained dispelled. He was indebted to the honorable Senator for the historical fact which he (Mr. C.) had not before pressed, that this very guarantee which secured to the Indians the undisturbed possession of their lands, in the treaty of 1791, was inserted by the express direction of the Father of his Country. And the Senate was called upon now, not merely to violate the solemn obligations which the whole nation had contracted, but to violate the provision which had been inserted at the instance of the venerated Father of his Country!

FRIDAY, February 6.

The honorable JOHN RUGGLES, elected a Senator from the State of Maine, to supply the vacancy occasioned by the resignation of the honorable PIERCE SPRAGUE, appeared to-day, and took his seat.

Roads in the Territory of Arkansas.

On motion of Mr. PORTER, the Senate took up the bill making appropriations for the completion of certain roads in the Territory of Arkansas; and the bill, having been explained and advocated by Messrs. HENDRICKS and PORTER, and opposed by Mr. HILL, was ordered to be engrossed for a third reading.

MONDAY, February 9.

Executive Patronage and Government Expenses.

Mr. CALHOUN said he was directed by the select committee appointed to inquire into the extent of executive patronage, and the means by which it might be reduced, to report the result of their labors; and he was happy to say that all the propositions before them had met with the consent of every member of the committee, with the exception of a single one, and on that there was but one dissentient vote.

The report was then read. The reading occupied an hour and a half, and concluded

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with recommending the adoption of a joint resolution; which was read a first time, and ordered to a second reading.

The joint resolution proposes an amendment to the Constitution of the United States, providing for a distribution of the surplus revenues among the several States and Territories until the year 1848.

The committee also reported a bill to regulate the deposits of the public money; which was read a first and second time, and made the special order for Thursday next.

The committee also reported a bill to repeal the first and second sections of an act to limit the term of office to certain officers therein named; which was read a first and second time, and made the special order for Thursday next.

Mr. CALHOUN, under the instructions of the committee, offered the following resolution; which lies one day for consideration:

Resolved, That the Secretary of the Treasury be directed to report to the Senate, at the commencement of the next session of Congress, what duties under twenty per cent. ad valorem, as provided by the sixth section of the act of the 2d of March, 1833, entitled "An act to modify the act of the 14th of July, 1832, and all other acts imposing duties on imports," can be reduced or repealed consistently with a due regard to the manufacturing interest, and an estimate of the probable amount of the reduction.

Mr. CALHOUN having moved to print a certain number of copies of the report of the committee of which Mr. BENTON was chairman, in 1826, on the dangerous tendency of executive patronage at that day—

Mr. POINDEXTER rose to make an additional motion, with respect to the printing of the report mentioned by the Senator from South Carolina; and also the report of the select committee which had just been read. It was his object, he said, to move for the printing of thirty thousand extra copies of both these reports, for the use of the Senate, and for distribution among the people of the United States.

He had been deeply impressed with the importance of the views presented to the Senate and to the country, by the report of the select committee appointed to inquire into the abuses of executive patronage, and the means, if any, by which it could be retrenched. He, for one, begged leave to accord to the committee his hearty thanks for the labor which they had bestowed on the subject referred to them, and for the illustrations which they had given to the various topics touched in the report made by them this morning to the Senate. It cannot be disguised, said Mr. P., that the question is now distinctly presented to the American people, of the importance of which they seem to be but little aware, whether power is to be perpetuated in the hands of a dominant party by the influence of patronage and the public money; and whether, by the use of these means, the incumbent of the executive chair shall be enabled to transfer the power which he now wields to some favorite successor; or whether that high

office is, as heretofore, under the practical operation of our system, to be freely conferred by the unbought suffrages of the people. It is a question of grave import, in which the office-holders and their dependents are ranged on the one side, and the friends of popular rights and free suffrage on the other. He deprecated the consequence that might result from the apparent apathy which seemed to prevail among the great body of the people, while gradual but fatal encroachments were made, by those who wield the destinies of the country, on the foundations of public liberty and the principles of our free constitution. All republics have fallen under the deleterious influence of an unlimited and misplaced confidence of the people in the purity and stability of human virtue, which never fails to end in cruel disappointment.

The American people, he feared, had been led of late into this great error, from which it may be found difficult to redeem them. They have been slow to believe that an individual, on whose virtue and patriotism they have heretofore placed the most implicit reliance, could be capable of attempting to carry out measures, the inevitable tendency and effects of which must, in the end, if not rebuked, produce the overthrow of their liberties. The only mode by which the people could be roused from this state of apathy was by the free circulation and diffusion of information, coming from authentic sources, combined with such sound reasoning and conclusions as are to be found in this report and other papers, similar in their character, emanating from committees of the two Houses of Congress. Thus, by the dissemination of fact and argument, the eyes of the people may be opened to the dangers by which they are surrounded, and the alarming powers which, unhappily for the country, are claimed and exercised by the present Chief Magistrate. Of all the assumptions of power, of which there had been such an abundant supply for the last two years, there was not one so dangerous in its character as the construction put by the President on the power of appointment and removal from office. Under this construction the Executive might, at pleasure, prostrate and override every other department of the Government, not even excepting the Judiciary. This is effected by converting that power, which was given for wise and useful purposes, into an engine which may be so managed as to accomplish objects in direct violation of the constitution, and thereby concentrate all the powers of the Government in one of its departments, which all history proves is that department most dangerous to the liberties of the people. He would, therefore, limit and restrain this power, by legislation, as far as possible, without a violation of the express provisions of the constitution.

It must be evident to every reflecting mind, that the concentration of these two powers in the same hands is of the very essence of despotism. How had the President got possession of

the public treasury? Not by virtue of any power vested in him by the constitution and the laws, for in these none such is to be found; but he had effected this object by appropriating the power of removal from office to its accomplishment. The President told the Secretary of the Treasury to remove the deposits from the bank, where the law had placed them for safe keeping and distribution. The Secretary replied, that he believed the public interests would not be consulted by such a measure; but that it would be, in his opinion, highly injurious to the country at large, and therefore he could not conscientiously comply with the wishes of the President in this respect, in the exercise of a discretion vested exclusively in him by law. Whereupon the President, with seeming courtesy, informs the Secretary: "Sir, I wish it to be distinctly understood that I do not desire to interfere with your duties; you are at liberty to execute them according to your construction of the law; but if you cannot conscientiously conform to my will, I annul your commission, and shall appoint an officer in your place, more pliant, who will obey my orders on my responsibility, without interposing his own opinion, either in reference to the powers vested in him by law, or the good of the country." It is undeniable that, according to this rule, which seems now to be the settled doctrine of this administration, no power can be vested in a subordinate officer of the Government by law, which is not liable to be controlled in its execution, at the discretion of the Chief Magistrate. Will any one pretend that this Government, thus administered, is one of checks and balances, which limits each department within its own orbit, and confines each to the exercise of its delegated powers and duties? Sir, it is no such thing. The monarch of England, with all his regal sway and pomp, would not dare to lay hold of the public treasury of the kingdom, and loan it out at his pleasure to the corporations of Liverpool or London, or distribute it among local banks, as his own whim or caprice, or his political ambition, might dictate. Such an outrage would arouse the spirit of English liberty, and the throne itself would tremble under the crowned head who had dared to commit it. But, strange as it may seem, all this has been done in this free country, under the name of democracy! The people have not yet had this question fairly before them for their decision.

We have, indeed, attempted to bring the high prerogative doctrines of the present day, in their naked deformity, to the view of the unsuspecting, honest, citizens of the Republic. But the issue has been evaded, and the people everywhere have been unblushingly told that it was a mere question of "bank or no bank." Thus, the unpopularity of all banks, and the reckless denunciations which have been put forth in the public press against the Bank of the United States, have been brought in aid of the dominant party; the minds of the people have been lured and diverted from the real question which

they had to decide, and, under this delusion, popular elections have turned in favor of those who have inflicted the most fatal wounds on the vital principles of our free constitution. But, said Mr. P., I will not permit myself to doubt that, whenever the freemen of this country shall be fully informed of the abuses which have been practised under this administration, of the prostitution of the press, and the corrupt purposes to which the patronage of the Government has been applied, and of the unmeasured strides of power, which defies the restraints of law, they will come to the rescue, in the majesty of their strength, and restore the constitution to its primitive purity and simplicity. Against the formidable array of executive power, now claimed and exercised, neither the constitution nor the law affords an adequate safeguard. This tremendous power of appointment to and removal from office, applied as it now is, enables the President to substitute his will, and render it paramount to the enactments of law, or the express provisions of the constitution. A single example will demonstrate this to the satisfaction of every unprejudiced mind. The power is vested in Congress to authorize the appointment of inferior officers by the courts of law or the heads of Departments. Could such a law be executed against the will of the President? It is manifest that it could not. For, if the head of any Department should refuse to appoint such inferior officers as the President might designate, notwithstanding the law, made in pursuance of the constitution, vested the power exclusively in the Department, the means of enforcing the will of the President, in this respect, is rendered plain and simple, by his former practice in like cases. He might, it is true, disclaim all intention of interfering with a head of a Department in the execution of a law, but that disclaimer would be followed up by the immediate removal of that officer, if he did not make such appointments as the President might dictate.

Thus the President may, with impunity, according to the construction which he puts upon his own powers, trample under foot the laws made in pursuance of the constitution, and make his mandate superior to both. These are the monstrous doctrines avowed and carried into practical operation by the self-styled democracy of the present day. In this manner he might even go further, and effectually control the execution of the judgments and decrees of the courts of the United States. Of what avail is a decree of judgment of the Supreme Court, if it could not be carried into execution? None at all. It would amount to a mere *brutum fulmen*, of no force or effect whatever. Could not the power of removal be applied to a marshal in any district of the United States, if he persisted in executing a judgment of the court, in opposition to an order from the President prohibiting him from levying on the property of the defendant, in the same manner that it has been applied to a Secretary of the Treasury for

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denying his agency in the transfer of the public treasure from its legal place of deposit? There is nothing in the nature of the service to be performed which would make it an exception to the general rule which is applicable to all officers holding commissions at the pleasure of the President. Thus he would become the ultimate arbiter of the most solemn decisions of the courts; he might examine the record, and pronounce an opinion that the judgment or decree of the court is unconstitutional, as he understands it, (and he executes the constitution as he understands it;) and on this ground alone, according to his good will and pleasure, order the marshal to disregard the process of execution, who would be bound to obey this imperial mandate or surrender his office to another.

Mr. KING, of Georgia, said that if he declined following the Senator from Mississippi through the range he had taken on the wrongful exercise of executive power, he hoped he would find a sufficient apology in the fact, that in no part of the report was the President's construction of the constitution doubted. He hoped, also, he might be pardoned for the suggestion, that the committee did not expect a discussion of such a character on the presentation of the report. Not knowing, or rather having forgotten, that the report would probably be presented this morning, he had neglected to furnish himself with some information which would be necessary to sustain him in a few comments which he intended to make upon some branches of the report, and which he should make on a future occasion. But the motion which had been made seemed to call attention now to one feature of the report. Sir, said Mr. K., I wish it expressly understood that I am in favor of a reduction of the expenses of this Government. And whenever a reasonable proposition was made, from the North or South, from any part or any party, the object of which was to effect this desirable end, he was prepared to concur in it; and that, said Mr. K., is the very reason I am opposed to this motion, which was to print 20,000—(some one near mentioned 30,000)—30,000, declared Mr. K., was more than he had understood it. He had the same objection to 30,000 that he had to the printing of 30,000,000. That objection was, that it was an abominable waste of the public treasury. What was the subject of our deliberation? It was the wasteful expenditure of the public money, as well as executive patronage, which in fact only grew out of it.

If, then, said Mr. K., the expenses of the Government have lately increased to an enormous extent; if they have greatly increased between 1825 and 1833, as stated in the report, which he believed to be true; his intention was, when the report came up again, to show where the increase originated, and was determined that the responsibility should rest where it ought to rest, and was not to be attributed to the Executive. What a spectacle did this body exhibit from day to day? The Senate had been

a week making war on the *extras* of the Post Office Department. They were now warring against the extravagance of the Executive; and while brandishing the sword in one hand in defence of the public treasure against the ravages of the Executive, we were with the other slipping it into our own pockets, or scattering it in profuse and wasteful extravagance. Mr. K., after enumerating a few features in the report which he intended hereafter briefly to comment upon, principally in the language and reasoning, said it was not his purpose further to trouble the Senate at that time upon the merits of the report, in the conclusions of which he mainly agreed. He concluded by a hope that the extraordinary number of extra copies proposed by the Senator from Mississippi would not be agreed to, as every copy over 5,000, for distribution, would be a useless waste, as the report was short, and before even 5,000 extras could be printed, it would be in all respectable journals in the United States. He said he had another objection to the printing of so large a number. It would counteract a principal object of the committee, who wished to avoid giving a party character to the report. These orders for printing so large a number of extras, he said, were looked upon generally as efforts to give a party importance to the document; and, nine times out of ten, it was the object of such orders. He hoped the Senator himself, on reflection, would consent to 5,000 extras, which he thought as many as would answer any useful purpose.

Mr. BENTON rose to speak to some parts of the report; to express his concurrence in some parts, his dissent to others.

He concurred in the general purport, and in the general object of the report, in showing the great increase which had taken place, in a short time, in the expenditures of the Government, and in the number of persons employed or supported by it. The increase was great, but not so great as had been depicted; and out of proportion to the increase of population and wealth of the country for the same period, but not so inordinately as the report affirmed. It was the object of the report to reduce this too great expenditure, and to diminish the number of that vast multitude of persons now paid or supported out of the federal treasury. In all this he concurred with the report; but he regretted, deeply and sincerely regretted, that it had not fallen within the scope of the chairman's view of his subject, to show the source and origin of these great increases; but the blame, if any, should fall upon the true authors, and the genius of reform should know where to apply her correcting hand. The omission of the chairman to show this, had laid him (Mr. B.) under the necessity of endeavoring to supply the defect; and he should do so under all the disadvantages of an immediate reply to a well-prepared report, which he had heard read once in committee before it was now read in this chamber. The report, said Mr. B., assumes, for the periods of comparison, the year 1825, which

was the first of Mr. Adams's administration, and the year 1833, which was the commencement of the second term of President Jackson's administration. It was in reality a comparison between the two last administrations and that of President Monroe, which terminated in the year which is taken for the starting point of the comparison. Confining himself to these points of time, Mr. B. would look into the origin of the principal causes of the great increases of money expended, and men employed or fed by the federal Government within this period, and would show that the implications of the report—for direct assertion was not made—but the implications of the report, which would seem to cast censure on the present administration for these large augmentations, could have no foundation in fact, and must find their application elsewhere.

The business of internal improvement was the first head of increase which Mr. B. would mention; and that business commenced, or rather assumed its expanded and invigorated form, in the year 1824, the last year of Mr. Monroe's administration, and under whose auspices and recommendations no person could better tell than the distinguished author of the present report. Internal improvements was then, and at that early time, the inviting ocean upon which many candidates for popular favor were seen to spread the entire surface of their distended canvas. Commenced upon national principles, and with the design of being confined to national objects, the whole system rapidly degenerated into local or neighborhood contrivances for the expenditure of money, and the acquisition of popularity. Before the end of Mr. Adams's four years, the downward course of the system had established the truth of the double prediction which Mr. Jefferson had made shortly before his death; it had opened a gulf which the treasures of Peru and Mexico could not fill! It had produced a scramble for money, in which the meanest got most! President Jackson found this system at that pass, with the immense augmentation of money expended, and men employed, which it necessarily involved; and the consequent increase of executive patronage which these augmentations implied. Far from enhancing, or even retaining, this branch of patronage, he voluntarily stripped himself of it. At the risk of some danger to his temporary popularity, he stood forth to oppose the barrier of the Executive veto to the fatal current of local and neighborhood internal improvement. He endeavored to turn back the system, and to confine it to its original design, that of great national objects. So far, then, as this head of increased expenditure, and increased numbers employed by the federal Government, has been a source of augmented patronage to the executive Government, President Jackson is free from blame; so far as diminution of patronage has resulted from the arrestation of the fatal and ruinous part of this system, he alone is entitled to the exclusive honor.

Revolutionary pensions, Mr. B. said, was the next source which he would point out of those augmentations, which were so conspicuously depicted in the report; and here the prolific source of an immense augmentation was revealed. Forty thousand pensioners, including the invalids of the last war, started to our view; near three millions of dollars were required to pay them, and he believed in 1833, it was near four millions. Who opened this fountain of Executive patronage; this prolific source of expenditure and of revolutionary hero resurrection, which, at the end of half a century, is exhibiting a larger army on the pension roll than ever Washington saw, at any one time, on the muster roll; which furnishes the author of this report with upwards of one-third of his hundred thousand men: which is now making the Revolution cost more money than it cost while it was existing and raging; and which has produced a demoralization of morals, and a perpetration of crimes, as revolting to the mind as it is humiliating to the country! Who produced all this? Certainly not President Jackson! but the action of Congress, under Executive recommendations, commencing at a period with which the author of this report must be most familiar, and carried on to the year 1833, when the system of pensioning received its climax in the law of that year, and in the production of consequences which astonish and afflict the country.

The removal of the Indians was the next source of increased expenditure, and increased agents, which Mr. B. adverted to; and on this head, far from disclaiming, he claimed the merit of it almost exclusively for President Jackson. It was he who had stood forth the true friend of the Indians, the true advocate and asserter of State rights, in relieving the Southern States of their Indian population, at the same time that he provided for these Indians themselves permanent, tranquil, unmolested, and far more desirable homes, in the rich and extended plains of the far West. In executing this policy, Congress acted under his recommendation; and to him the long-neglected and injured South—the States of Georgia, Alabama, and Mississippi, and the new States of the North-west, Ohio, Indiana, Illinois, Missouri, are all, all indebted, for the advantages and blessings which they now enjoy in their freedom from the incumbrance of a useless and inimical population within their borders. The exodus of the Indians from the east to the west of the Mississippi—from the land of the white man to the land of the red man—under the guiding and protecting hand of President Jackson, has been to both parties, to the white race and to the red race, an auspicious and delightful consummation, on which Heaven has shed its benignant blessing, and which calls for the grateful emotion of every heart, white or red, civilized or savage, which can rejoice in the prosperity of the human race, and feel gratitude and thankfulness to its greatest and most eminent benefactor. But, above all, and more than all put together, should the

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State of Mississippi feel that gratitude. Hard was her fate until President Jackson ascended the Presidential chair. The oldest Territory in the Union, a State for almost twenty years, a delicious climate, ample boundaries, lands adapted to the production of the richest staple, noble rivers—with all these advantages, her population remained a speck in the corner of her own extended map. The Chickasaws and Choctaws occupied the finest portions of her soil, and seemed destined to occupy them forever under the abetment of a great political party, then called national republicans, now whigs, whose policy was as cruel to the Indians as it was unjust to the people, and subversive of the rights of the States. President Jackson appeared at the head of the national affairs. He was the slave of no selfish or ambitious policy; the hunter of no factitious and delusive popularity. He was the friend of the whites and of the reds; he spoke the language of truth, justice, wisdom, to both; and the long-depressed and obscure State of Mississippi finds herself, as if by magic, in the possession of all her rights, and all her soil, advancing with rapid strides to wealth and population; displaying a prodigious expansion of both, and ready, at the census of 1840, to present six or eight members on the floor of the House of Representatives, where, until lately, she had but one member, and now has but two. More! The graduation principle, by treaty, is adopted for the sale of the newly acquired lands, descending down through successive gradations from \$1.25, to six and a quarter cents per acre! So that this State has acquired, by treaty, under the auspices of President Jackson, the justice and the boon which her elder sisters have been in vain soliciting from Congress for so many years. For all this, that noble State is indebted to President Jackson; and it is as honorable to the inhabitants of that State, as it is just and right in itself, that the throb of gratitude beats in the hearts, and the sentiment of affectionate respect glows in the bosoms of almost the whole of her entire population. And shall the expense of these measures, the expense of freeing not only Mississippi, but the whole South, and the entire North-west, from the encumbrance of an Indian population, be now set down, without explanation, in a grave report on Executive patronage, as one of the wasteful extravagances of the day, which portends the decline and fall of the Republic, and calls for the trenchant hand of cutting reform, and the indignant verdict of public reprobation?

Closely allied to this head, that of removal of Indians, was another, which Mr. B. would mention, and which was too intimately connected with that head to require the detail of explanation. It was the great acquisition of lands, by the extinction of Indian titles; the fair and full price, now for the first time allowed for them, and that by an administration depicted as the destroying angel of the red race;

the consequent increase of surveyors and land offices, and the additional expenses resulting from all these wise and patriotic operations. They, too, belong to President Jackson's administration; and Mr. B. claimed the honor of them for him, instead of confounding the increased expenditure resulting from them, and the increased number of persons employed to execute them, in the indiscriminate mass of extravagances denounced.

Another subject he would mention, the great increase of the tariff in 1824 and 1828, on the eve of presidential elections, and the complicated nature of their provisions to prevent evasions, detect smuggling, give the full benefit of their enactments to the manufacturers, and to carry out the protective principle in the living bodies of revenue officers to defend it, as well as in the ramparts of parchments, intrenching it to the teeth, which Congress was piling up around it. Here was a great source of additional expense; additional officers and agents employed, and additional patronage conferred; and which now has brought the collection of the custom-house revenue to the inordinate expense of nine per centum. But who did all this? Not the administration; and therefore the remedy does not lie in the change of the administration; but Congress—Congress did it; and therefore the evil lies in the conduct of the immediate representatives of the people, and the remedy lies in the hands of the people themselves.

Mr. B. repeated, he concurred with the general purport and the general object of the report, in the great and striking augmentation which it presented, of money expended, and men employed or fed by the federal Government; and the necessity of great and real retrenchment in both particulars, especially as many of the objects for which they were incurred were temporary in their nature, and evanescent in their existence. Yes, said Mr. B., the augmentations have been great; but so far as they are of questionable propriety, they have had their root in previous administrations, some of them in the administration of Mr. Monroe, when the author of this report was a distinguished member of that administration; others of these questionable measures had originate under Mr. Adams's administration, or in Congress itself, and under the high-pressure speeches, reports, and motions of gentlemen opposed to the administration of President Jackson. Try them, said Mr. B., examine them in detail, and you will find the great expenditures for objects of questionable propriety originated with others, while those of real expediency, of beneficial object, and clear constitutional propriety, owed their origin to the administration of President Jackson; and, what should never be forgotten, it was the exercise of the veto power by President Jackson which checked these extravagant expenditures of questionable objects, for which he received unmeasured denunciation! And let the people now mark it! This same President is now

blamed just as much for not stopping, as he was blamed for stopping those wild expenditures.

But, Mr. B. said, while agreeing to much that was in the report, and agreeing that there was not only room but necessity for retrenchment, it would be unjust to the people, who have no means of detecting the delusive and fallacious statements which go forth with the high sanction of the Senate's approbation, to let this report go forth among them, to startle, alarm, disquiet, and amaze them with the idea that the expenses of the Government had doubled in nine years, from 1825 to 1833. Never was a wilder proposition presented to the intelligence of a rational people; not that the quantity of money paid out in the last of those two years, and that exclusive of the public debt in both instances, was not in reality double that of the former, but the fallacy and delusion lay in this: that those great additional payments were not for the expenses of the Government, not for ordinary, usual, current, and progressive expenditures, but for unusual, extraordinary, individual, isolated, and anomalous objects, occurring once, and but once, finished forever when paid one time; some of them impossible, and others improbable to occur again; and therefore not fit to be held up among the current expenses and progressive extravagance of the Government.

The report, said Mr. B., assumes the years 1825 and 1833 for the comparison and contrast which it exhibits; the expenditure of the former being \$11,500,000, that of the latter \$22,750,000, and both exclusive of payments on account of the public debt; and this, as the report affirms, "during a period of profound peace, when no event had occurred calculated to warrant any unusual expenditure." Now, said Mr. B., let us see what extraordinary expenditure fell upon that year 1833. First, there was the Black Hawk war, on the upper Mississippi, which, though the fighting was done in 1832, yet the payments fell chiefly upon the ensuing year. Under this head alone there were payments in that year to near \$900,000, namely: to the militia and volunteers of Illinois, \$442,000; for their subsistence, \$186,000; for the conversion of rangers into a regiment of dragoons, \$274,000. Then there was paid for duties refunded on merchandise to importing merchants, the sum of \$701,760; then there was paid to claimants under the convention with Denmark, the sum of \$663,000; and this was money not expended, nor even paid, in the sense of payment, but merely delivered to these claimants, the Government having received it from Denmark, for their use, some years ago, and now delivered it to those to whom a commission had awarded it. Then there were extraordinary Indian treaties that year for the purchase of land, for which \$735,000 were paid; and removal of Indians, and subsisting them after they got to their new homes, the sum of \$368,000. But the greatest extraordinary payment of the whole year was that of revolutionary pensions, under the fatal act of 1832. That act originated in Congress,

and carried back its loose and wild provisions to take effect from the 4th of March, 1831. This threw the accumulated payments under that most unfortunate act, upon the year 1833; for all the remainder of the year 1832, in which the act was passed, was taken up in establishing the claims of persons to the benefit of the act. Thus the payments of 1832 were but \$355,686, while, in 1833, they were ten times that sum, amounting, in fact, to \$3,507,484. Putting these extraordinary payments together, said Mr. B., and you have a sum of about \$7,000,000 at once to be deducted from the grand aggregate of \$22,750,000, and he had no doubt but that a research into the whole list of extraordinaries for the same year would produce \$1,000,000 more. Be that as it may, here is a sum of \$7,000,000, not belonging to the current and progressive expenses of the Government, carried forward to the gross amount of such expenditure, and made the means of exhibiting a duplication of the expenses of the Government in the short space of eight years. Here is the fallacy, here the delusion; and hence the injustice of basing upon this duplication a cry of such enormous extravagance as to justify revolution, if we cannot get reformation. For reformation there is room; for revolution there is no pretext: and the reformation of the ballot-box, Mr. B. confidently hoped, would answer the exigency, and bring down the expenses of the Government, properly so called—the expenses necessarily incurred in working the machinery of the Government—to a sum much below what it would be, even after deducting the seven or eight millions of extraordinaries from the gross expenditure of twenty-two millions and three-quarters in 1833. To confirm his view, and to show that those seven or eight millions of extraordinaries ought not to be added to the ordinary expenditures of the Government, much less to be charged to its extravagance, and indicating a progressive expenditure which ought to rouse and alarm the country, Mr. B. would advert to the amount of the expenditures for the whole eight years comprehended in the report, premising that payments on account of the public debt are in all cases excluded. The successive annual expenditures then stand thus:

For 1825,	-	-	\$11,490,459
1826,	-	-	13,062,916
1827,	-	-	12,653,095
1828,	-	-	13,294,041
1829,	-	-	12,659,490
1830,	-	-	13,329,533
1831,	-	-	13,864,067
1832,	-	-	16,516,358
1833,	-	-	22,713,755

From this view, Mr. B. said, the increase of expenditure would appear not quite so frightful as this report would represent. For the first year of the term the increase was about a million and a half; for the next five years there was no increase of any moment, and twice there was a diminution. The years 1832 and 1833 had run up to large amounts, and that by the

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means which he had shown; so that if the author of the report had taken for the basis of his comparison the seven years of regular expenditure, he would have found an increase of about two millions only, instead of a duplication of eleven millions; a result which, while it would have presented something for reformation, would have presented nothing for revolution, or even for turning out the party in power, and putting in their opponents, who are the real authors of every thing which requires reformation.

Having shown the fallacy of the report in its exhibit of the extravagance of the Government; having shown its enormous error in stating that this great increase had taken place during a period of profound peace, when in fact there was an Indian war in the Upper Mississippi; and when not an event occurred to warrant unusual expenditure, when in fact \$7,000,000 of the expenditures were for objects, not only unusual, but never existing before or since; Mr. B. would say a word, and but a word, upon its correlative part, the increase of persons paid by the Government or fed by its bounty. In 1825, the whole number was 55,777; in 1833, 107,078. This (said Mr. B.) is almost double; but how did it happen? Why, from carrying the pensioners up from about 17,000 to about 40,000! adding multitudes for internal improvement and custom-houses, in consequence of the two tariffs of 1824 and 1828; requiring many persons to superintend the removal of Indians; many to survey and sell the newly-acquired lands; and a whole regiment of dragoons for the defence of the Western frontier. In these items, and others, the source of the increased numbers will be found; some few of them necessary and indispensable, as that of the dragoons; some necessary and temporary, as those for removal of Indians and internal improvement; some lawful, though the expediency of the law questionable, as those for carrying into effect the complex provisions of the new tariff laws; some amazing, and almost incredible, as the increase of pensioners, the bare statement of whose numbers announces a fraud of stupendous magnitude, and implies a demoralization of public morals of frightful enormity.

The dismissals from office next engaged Mr. B.'s attention. The affected moderation of language under which this topic was brought forward in the report, and the violence with which it concluded, were particularly pointed out. Remarks of a party character were disclaimed, and the disclaimer was instantly followed by a series of the most violent and offensive remarks of a party character. The present administration was charged with having reduced to a system the practice of removing from office for opinion's sake. The assertion, though veiled, and slightly made to wear the form of hypothesis, was nevertheless clear and explicit in the report, that the honest and capable were dismissed to make room for the base and corrupt; that offices were the spoils of vic-

tory, the rewards of partisan service, and the means of substituting man-worship for patriotism, encouraging vice and discouraging virtue, preparing for the subversion of liberty and the establishment of despotism, and converting the entire body of office-holders into corrupt and supple instruments of power. Such, said he, was the language of a report which set out with a formal disclaimer of party spirit and partisan remarks. In defending the administration from such flagrant charges, Mr. B. would first discriminate between terms which had been much confounded and abused, and then show that the removals made by President Jackson, like those made by President Jefferson, were the legitimate results of the previous system of appointments, and were necessary not only to the safety and success of a democratic administration, but due, as an act of justice, to the great democratic party of the Union. Terms, he said, were confounded. When a man had been five, ten, twenty, forty years in office, and failed to be reappointed at the end of his second, third, fourth, or fifth term of four years, it was called a dismissal, and the cry of persecution was set up. This, Mr. B. said, might be correct phraseology with those who thought offices ought to be for life, and eventually hereditary, but it was a phraseology repudiated in the democratic school, where the doctrine of right to office was repudiated, and the right of rotation was inculcated. With respect to the fact of dismissals, they resulted in general from appointments. The elder Mr. Adams appointed none but federalists; and Mr. Jefferson had to turn a portion of them out, in order to get in a portion of the republicans; and Mr. Jefferson had told him (Mr. B.) that he had never carried changes far enough; that he had not done justice to his own party. So of President Jackson; the younger Mr. Adams followed the plan of his father, and President Jackson had to follow the course of Mr. Jefferson. Mr. B. said that his recommendation for any office in his own State was worth nothing during the whole administration of Mr. Adams, and the latter part of the administration of Mr. Monroe, and the State to this day contained some persons in office, his decided opponents, who were appointed under the two former administrations. Doubtless, said he, President Jackson had made some unfortunate appointments; he himself had made some unfortunate recommendations, though he had made but few; but it was incontestably true that many of those who had been dismissed, or not reappointed, were themselves proscribers of those who were in their power, dismissing not only clerks and under officers for political opinions, but mechanics, workmen, and laborers. Yes, the day-laborer, when he would not prostitute his vote to the national republicans and the bank, has been dismissed from his labor.

Mr. B. next came to the proposition in the report to amend the constitution for eight years, to enable Congress to make distribution among

the States, Territories, and District of Columbia, of the annual surplus of public money. The surplus is carefully calculated at \$9,000,000 per annum for eight years; and the rule of distribution assumed goes to divide that sum into as many shares as there are Senators and Representatives in Congress; each State to take shares according to her representation; which the report shows would give for each share precisely \$80,406, and then leaves it to the State itself, by a little ciphering, in multiplying the aforesaid sum of \$80,406 by the whole number of Senators and Representatives which it may have in Congress, to calculate the annual amount of the stipend it would receive. This process the report extends through a period of eight years; so that the whole sum to be divided to the States, Territories, and District of Columbia, will amount to seventy-two millions of dollars.

Of all the propositions which he ever witnessed, brought forward to astonish the senses, to confound recollection, and to make him doubt the reality of a past or a present scene, this proposition, said Mr. B., eclipses and distances the whole! What! the Senate of the United States—not only the same Senate, but the same members, sitting in the same chairs, looking in each others' faces, remembering what each had said only a few short months ago—now to be called upon to make an alteration in the Constitution of the United States, for the purpose of dividing seventy-two millions of surplus money in the treasury; when that same treasury was proclaimed, affirmed, vaticinated, and proved, upon calculations, for the whole period of the last session, to be sinking into bankruptcy! that it would be destitute of revenue by the end of the year, and could never be replenished until the deposits were restored! the bank rechartered! and the usurper and despot driven from the high place which he dishonored and abused! This was the cry then; the cry which resounded through this chamber for six long months, and was wafted upon every breeze to every quarter of the Republic, to alarm, agitate, disquiet, and enrage the people. The author of this report, and the whole party with which he marched under the *oriflamme* of the Bank of the United States, filled the Union with this cry of a bankrupt treasury, and predicted the certain and speedy downfall of the administration, from the want of money to carry on the operations of the Government.

[Mr. CALHOUN here rose and wished to know of Mr. BENTON whether he meant to include him in the number of those who had predicted a deficiency in the revenue.]

Mr. B. said he would answer the gentleman by telling him an anecdote. It was the story of a drummer taken prisoner in the Low Countries by the videttes of Marshal Saxe, under circumstances which deprived him of the protection of the laws of war. About to be shot, the poor drummer plead in his defence that he was a non-combatant; he did not fight and kill

people; he did nothing, he said, but beat his drum in the rear of the line. But he was answered, so much the worse; that he made other people fight, and kill one another, by driving them on with that drum of his in the rear of the line; and so he should suffer for it. Mr. B. hoped that the story would be understood, and that it would be received by the gentlemen as an answer to his question; as neither in law, politics, nor war, was there any difference between what a man did by himself, and did by another. Be that as it may, said Mr. B., the strangeness of the scene in which we are now engaged remains the same. Last year it was a bankrupt treasury, and a beggared Government; now it is a treasury gorged to bursting with surplus millions, and a Government trampling down liberty, contaminating morals, bribing and wielding vast masses of people, from the unemployable funds of countless treasures. Such are the scenes which the two sessions present; and it is in vain to deny it, for the fatal speeches of that fatal session have gone forth to all the borders of the Republic. They were printed here by the myriad, franked by members by the ton weight, freighted to all parts by a decreed and overwhelmed Post Office, and paid for! paid for! by whom! Thanks for one thing, at least! The report of the Finance Committee on the bank (Mr. TRIM's report) effected the exhumation of one mass—one mass of hidden and buried putridity; it was the printing account of the Bank of the United States for that session of Congress, which will long live in the history of our country under the odious appellation of the panic session. That printing account has been dug up; is the black vomit of the bank! and he knew the medicine which could bring forty such vomits from the foul stomach of the old red harlot. It was the medicine of a committee of investigation, constituted upon parliamentary principles; a committee composed, in its majority, of those who charged misconduct, and evinced a disposition to probe every charge to the bottom; such a committee as the Senate had appointed, at the same session, not for the bank, but for the Post Office.

Yes, exclaimed Mr. B., not only the treasury was to be bankrupt, but the currency was to be ruined. There was to be no money. The trash in the treasury, what little there was, was to be nothing but depreciated paper, the vile issues of insolvent pet banks. Silver, and United States bank notes, and even good bills of exchange, were all to go off, all to take leave, and make their mournful exit together; and gold! that was a trick unworthy of countenance; a gull to bamboozle the simple, and to insult the intelligent, until the fall elections were over. Ruin, ruin, ruin to the currency, was the lugubrious cry of the day, and the sorrowful burden of the speech for six long months. Now, on the contrary, it seems to be admitted that there is to be money, real good money, in the treasury, such as the fiercest haters of the pet banks

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would wish to have; and that not a little, since seventy-two millions of surpluses are proposed to be drawn from that same empty treasury in the brief space of eight years. Not a word about ruined currency now. Not a word about the currency itself. The very word seems to be dropped from the vocabulary of gentlemen. All lips closed tight, all tongues hushed still, all allusions avoided, to that once dear phrase. The silver currency doubled in a year; four millions of gold coins in half a year; exchanges reduced to the lowest and most uniform rates; the whole expenses of Congress paid in gold; working people receiving gold and silver for their ordinary wages. Such are the results which have confounded the prophets of woe, silenced the tongues of lamentation, expelled the word currency from our debates, and brought the people to question, if it cannot bring themselves to doubt, the future infallibility of those undaunted alarmists who still go forward with new and confident predictions, notwithstanding they have been so recently and so conspicuously deceived in their vaticinations of a ruined currency, a bankrupt treasury, and a beggared Government.

But here we are, said Mr. B., actually engaged in a serious proposition to alter the Constitution of the United States for the period of eight years, in order to get rid of surplus revenue; and a most dazzling, seductive, and fascinating scheme is presented; no less than nine millions a year for eight consecutive years. It took like wild-fire, Mr. B. said, and he had seen a member—no, that might seem too particular—he had seen a gentleman who looked upon it as establishing a new era in the affairs of our America, establishing a new test for the formation of parties, bringing a new question into all our elections, State and federal, and operating the political salvation and elevation of all who supported it, and the immediate, utter, and irretrievable political damnation of all who opposed it. But Mr. B. dissented from the novelty of the scheme. It was an old acquaintance of his, only new vamped and new furnished, for the present occasion. It is the same proposition, only to be accomplished in a different way, which was brought forward some years ago by a Senator from New Jersey, [Mr. DICKERSON,] and which then received unmeasured condemnation, not merely for unconstitutionality, but for all its effects and consequences; the degradation of mendicant States, receiving their annual allowance from the bounty of the federal Government; the debauchment of the public morals, when every citizen was to look to the federal treasury for money, and every candidate for office was to out-bid his competitor in offering it; the consolidation of the States, thus resulting from a central supply of revenue; the folly of collecting with one hand to pay back with the other, and both hands to be greased at the expense of the citizen, who pays one man to collect the money from him, and another to bring it back to him, *minus* the

interest and the cost of a double operation in fetching and carrying; and the eventual and inevitable progress of the scheme to the plunder of the weaker half of the Union by the stronger; when the stronger half would undoubtedly throw the whole burden of raising the money upon the weaker half, and then take the main portion to themselves. Such were the main objections uttered against this plan seven years ago, when a gallant son of South Carolina [General HAYNE] stood by his (Mr. B.'s) side—no, stood before him, and led him in the fight against that fatal and delusive scheme, now brought forward under a more seductive, dangerous, alarming, inexcusable, unjustifiable, and demoralizing form.

Yea, said Mr. B., it is not only the revival of the same plan for dividing surplus revenue, which received its condemnation on this floor seven or eight years ago, but it is the modification, and that in a form infinitely worse for the new States, of the famous land bill which now lies upon our table. It takes up the object of that bill, and runs away with it, giving nine millions where that gave three, and leaves the author of that bill out of sight behind; and can the gentleman from South Carolina [Mr. CALHOUN] be so short-sighted as not to see that somebody will play him the same prank, and come forward with propositions to raise and divide twenty, thirty, forty millions, and thus outleap, outjump, and outrun him in the race of popularity, just as far as he himself has now outjumped, outleaped, and outrun the author of the land distribution bill?

Mr. B. admonished the Senate to beware of ridicule. To pass a solemn vote for amending the constitution for the purpose of enabling Congress to make distribution of surpluses of revenue, and then find no surplus to distribute, might lessen the dignity and diminish the weight of so grave a body. It might expose it to ridicule; and that was a hard thing for public bodies and public men, to stand. The Senate had stood much in its time; much in the latter part of Mr. Monroe's administration, when the Washington Republican habitually denounced it as a faction, and displayed many brilliant essays, written by no mean hand, to prove that the epithet was well applied, though applied to a majority. It had stood much, also, during the four years of the second Mr. Adams's administration; as the surviving pages of the defunct National Journal could still attest; but in all that time it stood clear of ridicule; it did nothing upon which saucy wit could lay its lash. Let it beware now! for the passage of this amendment may expose it to untried peril; the peril of song and caricature. And woe to the Senate, farewell to its dignity, if it once gets into the windows of the print-shop, and becomes the burden of the ballads which the milkmaids sing to their cows.

When he had thus shown that a diminution of revenue could be effected, both on imports and on refuse and unsalable lands, Mr.

B. took up the third issue which he had joined with the report; namely, the possibility of finding an object of general utility on which the surpluses could be expended. The report affirmed there was no such object; he, on the contrary, affirmed that there were such; not one, but several, not only useful, but necessary; not merely necessary, but exigent; not exigent only, but in the highest possible degree indispensable and essential. He alluded to the whole class of measures connected with the general and permanent defence of the Union! In peace, prepare for war! is the admonition of wisdom in all ages and in all nations; and sorely and grievously has our America heretofore paid for the neglect of that admonition. She has paid for it in blood, in money, and in shame. Are we prepared now? And is there any reason why we should not prepare now? Look at your maritime coast, from Passamaquoddy bay to Florida point; your gulf coast, from Florida point to the Sabine; your lake frontier, in its whole extent. What is the picture? Almost destitute of forts, and, it might be said, quite destitute of armament. Look at your armouries and arsenals—too few and too empty; and the West almost destitute! Look at your militia, many of them mustering with corn stalks; the States deficient in arms, especially in field artillery and in swords and pistols for their cavalry! Look at your navy; slowly increasing under an annual appropriation of half a million a year, instead of a whole million, at which it was fixed soon after the late war, and from which it was reduced some years ago, when money ran low in the treasury! Look at your dock yards and navy yards; thinly dotted along the maritime coast, and hardly seen at all on the gulf coast, where the whole South, and the great West so imperiously demand naval protection! Such is the picture; such the state of our country; such its state at this time, when even the most unobservant should see something to make us think of defence! Such is the state of our defences now, with which, oh! strange and wonderful contradiction! the administration is now reproached, reviled, flouted, and taunted, by those who go for distribution and turn their backs on defence! and who complain of the President for leaving us in this condition, when five years ago, in the year 1829, he recommended the annual sum of \$250,000 for arming the fortifications, (which Congress refused to give,) and who now are for taking the money out of the treasury, to be divided among the people, instead of turning it all to the great object of the general and permanent defence of the Union, for which they were so solicitous, so clamorous, so feelingly alive, and patriotically sensitive, even one short month ago.

Does not the present state of the country (said Mr. B.) call for defence? and is not this the propitious time for putting it in defence? and will not that object absorb every dollar of real surplus that can be found in the treasury for

these eight years of plenty, during which we are to be afflicted with seventy-two millions of surplus? Let us see. Let us take one single branch of the general system of defence, and see how it stands, and what it would cost to put it in the condition which the safety and the honor of the country demanded. He spoke of the fortifications, and selected that branch, because he had data to go upon; data to which the Senator from South Carolina, the author of this report, could not object.

But the amendment is to be temporary: it is only to last until 1842. What an idea!—a temporary alteration in a constitution made for endless ages! But let no one think it will be temporary, if once adopted. No! if the people once come to taste that blood; if they once bring themselves to the acceptance of money from the treasury, they are gone forever. They will take that money in all time to come; and he that promises most, receives most votes. The corruption of the Romans, the debauchment of the voters, the venality of elections, commenced with the Tribunitian distributions of corn out of the public granaries; it advanced to the distribution of the spoils of foreign nations, brought home to Rome by victorious generals and divided out among the people; it ended in bringing the spoils of the country into the canvas for the consulship, and in putting up the diadem of empire itself to be knocked down to the hammer of the auctioneer. In our America there can be no spoils of conquered nations to distribute. Her own treasury—her own lands—can alone furnish the fund. Begin it once, no matter how, or upon what—surplus revenue, the proceeds of the lands, or the lands themselves—no matter; the progress and the issue of the whole game is as inevitable as it is obvious. Candidates bid, the voters listen; and a plundered and pillaged country—the empty skin of an immolated victim—is the prize and the spoil of the last and the highest bidder.

Mr. CALHOUN said that he rose to make a very few remarks in reply to the member from Missouri; and he must say that, in the long speech with which he had entertained the Senate, there was very little that was relevant or deserving of notice.

He commenced, said Mr. C., with blaming me for not going into the cause of the late enormous increase of patronage, which he admits to be as great as is stated in the report: I answer him that the reason why he has gone into the cause of the increase is the reverse of that which has governed me in abstaining. His object is to defeat—mine to carry the measure. He well knew that an inquiry of the kind must necessarily lead to crimination and recrimination, and ultimately to the excitement of those party feelings which must defeat the application of any remedy to the disease which is acknowledged on all sides to afflict the body politic. I must, said Mr. C., be permitted to express my surprise at the zeal which the

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Senator has displayed to defeat the report of the committee. This is not the first time that he has been charged with an inquiry into Executive patronage. He was chairman of the committee in 1826 which had this subject under investigation. He even at that early period took the strongest ground against Executive patronage, and portrayed, in the most vivid colors, the dangers which then threatened our institutions and liberty. And now, when it has been demonstrated that patronage has more than doubled, and when it has been shown that the danger to which we were exposed from this enormous increase is of the most alarming character, he rises in his place, and, instead of aiding the application of some efficient remedy, he makes the most strenuous efforts to distract and divert the public attention, by entering into an untimely party inquiry into the cause of this increase of patronage. My surprise does not stop here. The nature of the remedy which he proposes against this alarming growth of Executive patronage, which he dare not deny, is no less extraordinary than the contrast between his course in 1826 and now. He gravely proposes, as a remedy for the disease, that the surplus revenue shall be expended on fortifications along the coasts! Where has the Senator been for the last two or three years? Has he not been in his seat? Has he not been chairman of the Committee on Military Affairs, and has he not been silent on the subject of fortification all this time, although he has yearly witnessed millions of money wasted on useless and unnecessary objects of expenditure? Is he sincere? How, then, can he justify his long silence upon the subject which he now holds out to be of such immense importance? Is he not sincere? How can he justify his acting such a part in the face of the Senate?

But feeling the dilemma in which he was placed between his past and his present course, he has undertaken, with the boldest assertion, not to say offensive, to deny that there will be any surplus revenue—to anticipate which he has pronounced to be not only wild and visionary, but a perfect hallucination. After such strong asseverations, one would have expected some demonstrative proof of gross and palpable error in the estimate of the future increase which the committee has presented. Has he shown any? No; he has not even attempted it. He has not even made an effort to point out a single error, either in data or conclusion. On what, then, does he rely to justify his bold and offensive assertion? He relies upon that which is natural to one standing on his party connection—I was about to use an expression which would appear harsh, but I will refrain. He relies upon authority—on the authority of the Secretary of the Treasury; and he gravely tells us here in debate, what he, Levi Woodbury, as he calls him, authorized him to state for the information of the Senate. I must be permitted to express my surprise, said Mr. C., that the Chair permitted the disorder of com-

municating thus unofficially, by a Senator in his place, the opinion of one of the Secretaries.

Mr. C. said, I have not even taken the trouble to ascertain what is the opinion of Mr. Woodbury; for I must say that his report, neither as to manner nor matter, seemed to be entitled to any extraordinary respect. But what says this Secretary? At what does he estimate the income of the year? Why, sir, he estimates it almost at the precise sum estimated by the committee. It is true, he does not acknowledge a balance, or at least but a small one, at the end of the year; but why so? simply because he has raised the expenditure to the income, as great as it is, and because he has chosen to charge all the unapplied appropriations at the end of the year, which usually amount to several millions of dollars.

No one knows better than the Senator from Missouri the fallacy of bringing forward these unapplied appropriations—that they run on from year to year without much variation; and he has again and again demanded the interpretation placed on the sinking fund act of 1816, on the ground that these unapplied appropriations were taken into the estimate contrary to the intent of the act, and which in its consequence kept a useless unexpended sum in the treasury of five or six millions of dollars, to the heavy loss of the community. He now chooses to forget his denunciations, and avails himself of the error which he formerly so severely condemned—an error which now represents the treasury as almost deficit, when the Senator well knows that, had a distribution been authorized at the end of the last year, six millions might have been safely distributed.

In his eagerness to show that the committee had over-estimated the income, he had fixed upon the years 1841-'42; when, according to the compromise act, the heavy reduction in the duties are to take place. In reply, I have but a single remark to make. The Senator ought to have known, as a member of the committee, that those years were not taken into the estimate. That the calculation of the committee terminated in the year 1841, when the biennial reduction of one-tenth ceased; till which year, it estimated that the average sum at the disposition of the Government, comprehending the bank stock and the present surplus in the treasury, would be nine millions of dollars. Not on the supposition, as he would have the Senate to believe, that the annual expenditure would be nearly twenty millions of dollars, as estimated by the Secretary, but that it would be reduced to less than thirteen millions.

The only question, then, that remains is, whether the estimate to what the expenditure ought to be reduced, rests on a substantial basis? For this purpose the committee selected the expenditure of 1823 as the basis of their calculation—the Senator from Missouri was then a member of this body, and I appeal to him, said Mr. C., to say whether he was not one of those

who at that time pronounced the expenditure to be extravagant.

[Mr. BARROW said, yes; he was called a radical in that day.]

Well, then, said Mr. O., you cannot object to the basis on which I rest my calculation: to the expenditure of that year the committee added two per cent. annually, on account of the growth of the country; a sum as large as can be safely added, as they have abundantly demonstrated. They have gone further; they have added the full amount of the pensions, as estimated by the Secretary of War, and they find that, even upon this liberal basis, the expenditure ought not much to exceed twelve millions of dollars per annum, allowing for the decrease in the pension list, on account of deaths, to say nothing of the very great reduction which will probably be made on account of the almost innumerable frauds which are acknowledged to exist: take this sum from the income as estimated by the Secretary himself for the present year, and it will give the surplus estimated by the committee; and yet this plain substantial statement, confirmed by the authority on which the Senator himself relies, is pronounced by him to be wild—visionary—a hallucination!

But the committee has been accused of impeaching the conduct of the President, and calling in question his motives. The charge has as much foundation as the other assertions of the Senator. The committee has nowhere cast censure, or imputed improper motives; they have spoken of facts, and facts only, as they found them, and traced them to their natural consequences, without regard to any individual or any party. If there be any who feel, the fault is not ours. The committee has not acted upon party ground; they investigated the subject referred to them with impartiality, as citizens attached to the country, and having an interest in the preservation of its institutions. They deeply felt that the crisis is of a most alarming character—that the character of our Government is undergoing a great change, which in its consequences threatened disaster to the country, and that the only effectual mode of arresting the approach of revolution is by the application of timely and peaceful remedies, such as those which they have proposed.

It seems that the estimates are not to receive credit, because it had been last year anticipated, in the argument on the deposit question, that there would be a deficit, when there was a surplus. Mr. O. said that he had asked the Senator whether he intended the remark to be applied to him, and he must say that he had not received the answer which, according to the usual courtesy which prevails in the body, he had a right to expect. I throw back, said Mr. O., the assertion of the Senator: I made no false prediction; I anticipated no deficit. It is well known to those with whom I associated, that, at the time, I looked into the subject, and then stated that the estimate that there would be

a deficit was erroneous, and so stated at the time. I then estimated the receipts from the customs at sixteen millions, and I only desire that my estimate as to the surplus revenue may be as correct as my estimate of the revenue of last year then was. I have little apprehension as to the customs. If there be error, it is as to the public lands. I have taken a sum less than the average of the last four years; much less in fact than it appears; for instead of taking the income of 1833 at three millions nine hundred thousand, I might well have taken it at five millions, the amount at which the land sold, although the return of the year is put down at \$3,900,000, without giving anywhere, as far as I can see, a satisfactory explanation. But I am well aware that the great sales of this and the last year are to be attributed to the large tracts of fertile land brought into the market, and which may possibly have a greater effect on the revenue from this source than was estimated by the committee.

Mr. POINDEXTER then modified his motion, so as to make it 20,000.

Mr. KING, of Alabama, was willing to vote for 10,000 of each of the reports.

The question was taken on the motion to print 10,000 and decided as follows:

YEAS.—Messrs. Benton, Bibb, Black, Brown, Buchanan, Calhoun, Cuthbert, Ewing, Goldsborough, Grundy, Hendricks, Kane, King of Alabama, Leigh, Linn, McKean, Mangum, Naudain, Poindexter, Putter, Robbins, Robinson, Silabee, Smith, Southard, Tipton, Tomlinson, Tyler, White—29.

NAYS.—Messrs. Hill, King of Georgia, Morris, Shepley, Tallmadge, Wright—6.

FRIDAY, February 13.

Colonel John Laurens.

The bill supplementary to the act for the relief of the representatives of Colonel John Laurens was considered as in Committee of the Whole.

The bill was ordered to be engrossed for a third reading, by the following vote:

YEAS.—Messrs. Bell, Bibb, Black, Clay, Ewing, Frelinghuysen, Goldsborough, Hendricks, Kane, Kent, King of Alabama, Knight, Leigh, Linn, McKean, Moore, Naudain, Poindexter, Prentiss, Preston, Robbins, Robinson, Silabee, Smith, Southard, Swift, Tipton, Tomlinson, Tyler, Waggaman, Webster, White—32.

NAYS.—Messrs. Benton, Brown, Calhoun, Cuthbert, Grundy, Hill, King of Georgia, Mangum, Morris, Ruggles, Shepley, Tallmadge, Wright—13.

Executive Patronage.

On motion of Mr. CALHOUN, the Senate proceeded to the consideration of the bill reported by him from the select committee on Executive patronage, to repeal the first and second sections of an act to limit the terms of service of certain civil officers, approved the 15th of May, 1830.

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Mr. CALHOUN said this is not the first time that the measure, now under consideration, has been before the Senate. It was introduced eight years ago, on the report of a select committee then raised on Executive patronage, as one of the measures then thought necessary to curtail what, at that time, was thought to be the excessive patronage of the Executive. The party then in opposition, and now in power, then pledged themselves to the community that, should they be elevated to power, they would administer the Government on the principles laid down in the report. Mr. C. said that it was now high time to inquire how this solemn pledge, which, in his opinion, imposed a sacred obligation, has been redeemed. Has the plighted faith been kept which the committee gave in the name of the party? Before I undertake to answer this question, it may be proper to inquire who constituted that committee, and what the position they occupy? The chairman was Mr. Benton, now a member of the Senate and of the present committee. The name of Mr. Macon, then a Senator from North Carolina, so well known to the country, stands next; Mr. Van Buren, now Vice President; Mr. Dickerson, now Secretary of the Treasury; Mr. Johnson, now a member of the other House from Kentucky; Mr. White, (then as now of Tennessee,) Senator from Tennessee; Mr. Holmes, of Maine; Mr. Hayne, of South Carolina; Mr. Findley, of Pennsylvania; then distinguished members of this body.

Such was the committee, which then and now stands so high in the confidence of the party now in power. Hear what their report says upon this subject of Executive patronage.

Here an extract from the report was read, as follows:

"To be able to show to the Senate a full and perfect view of the power and workings of federal patronage, the committee addressed a note, immediately after they were charged with this inquiry, to each of the Departments, and to the Postmaster General, requesting to be informed of the whole number of persons employed and the whole amount of money paid out, under the direction of their respective Departments. The answers received are hereunto submitted, and made part of this report. With the Blue Book, they will discover enough to show that the predictions of those who were not blind to the defects of the constitution are ready to be realized; that the power and influence of federal patronage, contrary to the argument in the 'Federalist,' is an overmatch for the power and influence of State patronage; that its workings will contaminate the purity of all elections, and enable the federal Government, eventually, to govern throughout the States, as effectually as if they were so many provinces of one vast empire.

"The whole of this great power will centre in the President. The King of England is the 'fountain of honor;' the President of the United States is the source of patronage. He presides over the entire system of federal appointments, jobs, and contracts. He has 'power' over the 'support' of the individuals who administer the system. He makes and un-

makes them. He chooses from the circle of his friends and supporters, and may dismiss them, and upon all the principles of human actions will dismiss them, as often as they disappoint his expectations. His spirit will animate their actions in all the elections to State and federal offices. There may be exceptions; but the truth of a general rule is proved by the exception. The intended check and control of the Senate, without new constitutional or statutory provisions, will cease to operate. Patronage will penetrate this body, subdue its capacity of resistance, chain it to the car of power, and enable the President to rule as easily, and much more securely, with than without the nominal check of the Senate. If the President was himself the officer of the people, elected by them, and responsible to them, there would be less danger from this concentration of all power in his hands; but it is the business of statesmen to act upon things as they are, not as they would wish them to be. We must then look forward to the time when the public revenue will be doubled; when the civil and military officers of the federal Government will be quadrupled; when its influence over individuals will be multiplied to an indefinite extent; when the nomination by the President can carry any man through the Senate, and his recommendation can carry any measure through the two Houses of Congress; when the principle of public action will be open and avowed—the President wants my vote, and I want his patronage; I will vote as he wishes, and he will give me the office I wish for. What will this be, but the government of one man? and what is the government of one man but a monarchy? Names are nothing. The nature of a thing is in its substance, and the name soon accommodates itself to the substance. The first Roman Emperor was styled Emperor of the Republic, and the last French Emperor took the same title; and their respective countries were just as essentially monarchical before as after the assumption of these titles. It cannot be denied or dissembled, but that the federal Government gravitates to the same point, and that the election of the Executive by the Legislature quickens the impulsion.

"Those who make the President must support him. Their political fate becomes identified, and they must stand or fall together. Right or wrong, they must support him; and if he is made contrary to the will of the people, he must be supported not only by votes and speeches, but by arms. A violent and forced state of things will ensue; individual combats will take place; and the combats of individuals will be the forerunner to general engagements. The array of man against man will be the prelude to the array of army against army, and of State against State. Such is the law of nature; and it is equally in vain for one set of men to claim an exemption from its operation, as it would for any other set to suppose that, under the same circumstances, they would not act in the same manner. The natural remedy for all this evil would be to place the election of President in the hands of the people of the United States. He would then have a power to support him which would be as able and as willing to aid him, when he was himself supporting the interest of the country, as they would be to put him down when he should neglect or oppose those interests. Your committee, looking at the present mode of electing the President as the principal source of all this evil, have commenced their labors at the beginning of this session, by recommending an amend-

ment to the constitution in that essential and vital particular; but in this, as in many other things, they find the greatest difficulty to be in the first step. The committee recommend the amendments, but the people cannot act upon it until Congress shall 'propose' it, and peradventure Congress will not 'propose' it to them at all.

"It is no longer true that the President, in dealing out offices to members of Congress, will be limited, as supposed in the *Federalist*, to the inconsiderable number of places which may become vacant by the ordinary casualties of deaths and resignations; on the contrary, he may now draw, for that purpose, upon the entire fund of the Executive patronage. Construction and legislation have accomplished this change. In the very first year of the constitution, a construction was put upon that instrument which enabled the President to create as many vacancies as he pleased, and at any moment that he thought proper. This was effected by yielding to him the singly prerogative of dismissing officers without the formality of a trial. The authors of the *Federalist* had not foreseen this construction; so far from it, they had asserted the contrary, and, arguing logically from the premises 'that the dismissing power was appurtenant to the appointing power,' they had maintained, in No. 77 of that standard work, that, as the consent of the Senate was necessary to the appointment of an officer, so the consent of the same body would be equally necessary to his dismissal from office. But this construction was overruled by the first Congress which was formed under the constitution; the power of dismissal from office was abandoned to the President alone, and, with the acquisition of this prerogative alone, the power and patronage of the presidential office was instantly increased to an indefinite extent; and the argument of the *Federalist* against the capacity of the President to corrupt the members of Congress, founded upon the small number of places which he could use for that purpose, was totally overthrown. So much for construction. Now for the effects of legislation; and without going into an enumeration of statutes which unnecessarily increase the Executive patronage, the four years' appointment law will alone be mentioned; for this single act, by vacating almost the entire civil list once in every period of a presidential term of service, places more offices at the command of the President than were known to the constitution at the time of its adoption, and is, of itself, again sufficient to overthrow the whole of the argument which was used in the *Federalist*."

It is impossible, said Mr. C., to read this report, which denounces in such unqualified terms the excess and the abuses of patronage at that time, without being struck with the deplorable change which a few short years has wrought in the character of our country. Then we were sensitive in all that related to our liberty, and jealous of patronage and Governmental influence; so much so, that a few inconsiderable removals, three or four printers, roused the indignation of the whole country—events which would now pass unnoticed. We have grown insensible, become callous and stupid.

But let us turn to the question which I have asked. How has the plighted faith of the party been fulfilled? Have the abuses then denounced been corrected? Has the four years'

law been repealed? Has the election of the President been given to the people? Has the exercise of the dismissing power by the President which was then pronounced to be a dangerous violation of the constitution, been restored to Congress? All these pledges have been forgotten. Not one has been fulfilled. And what justification, I ask, is offered for so gross a violation of faith? None is even attempted; the delinquency is acknowledged; and the only effort which the Senator from Missouri has made to defend his own conduct and that of the administration, in adopting the practice which he then denounced, is the plea of retaliation. He says that he had been fourteen years a member of the Senate; and that, during the first seven, no friend of his had received the favor of the Government; and contends that it became necessary to dismiss those in office to make room for others who had been for so long a time beyond the circle of executive favor. What, Mr. C. asked, is the principle, when correctly understood, on which this defence rests? It assumes that retaliation is a principle in its nature so sacred that it justifies the violation of the constitution, the breach of plighted faith, and the subversion of principles the observance of which had been declared to be essential to the liberty of the country. The avowal of such a principle may be justified at this time by interested partisans; but the time must arrive when a more impartial tribunal will regard it in a far different light, and pronounce that sentence which violated faith and broken pledges deserve. Mr. C. said the bill now before the Senate affords an opportunity to the dominant party to redeem its pledge, as late as it is, and to avert, at least in part, that just denunciation which an impartial posterity will otherwise most certainly pronounce upon them. He hoped that they would embrace the opportunity, and thereby prove that, in expelling the former administration, they were not merely acting a part, and that the solemn pledges and promises then given were not electioneering tricks, devoid of sincerity and faith. I consider it, said Mr. C., as an evidence of that deep degeneracy which precedes the downfall of a republic, when those elevated to power forget the promises on which they were elevated; the certain effect of which is to make an impression on the public mind that all is juggling and trickery in politics, and to create an indifference to political struggles, highly favorable to the growth of despotic power.

Mr. BENTON replied at much length.

Mr. SOUTHWARD said that the proposition then before the Senate had relation entirely to the bill which had been proposed by the select committee as one of the means by which executive power was to be restrained. When he said this, his object was to draw the attention of the Senate to the subject under consideration, not to meet any statements with regard to financial matters. The simple proposition was, was it

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proper that the bill should pass? The first section of the bill supplied two sections of the bill passed in 1820, and the second section provided that Congress shall be aware who are public defaulters, declaring that the commissions of such shall expire. The last provision required that the President should assign to the Senate his reasons, when he removes a public officer from office. He approved of the first provision of the bill, because he believed that the act of May, 1820, placed too much power in the hands of the President, and had accomplished none of the intentions for which it was framed. The act required that certain officers should be appointed for the term of four years, and the intention was to bring those officers (who were disbursing officers) before the Executive at the end of every four years, in order that, if their official conduct had not been correct, he might, by failing to renominate, get rid of them without the formality of a removal. The object certainly was a good one, but it had tended to increase the power of the Executive to an extent not anticipated at the time of the passage of the law. The law went into operation immediately preceding the presidential election, and every four years afterwards the officers appointed under it were to go out of office if not reappointed. Now, could any man not see that all these officers would feel themselves dependent on the Executive, who had the power to leave them out or renominate them. The law as it stood placed every man, who was not above being bribed by office, in the market, feeling and acting on the principle that he was to support the man who would keep him in office. Pass the bill before the Senate, and the result will be far different. Each office-holder would be independent, and would look solely to a faithful discharge of his duty for his continuance in office. As the law now stood, it was made to operate on the whole band of officers of the Government, as well on the other officers as on the disbursing agents for whom it was originally intended. Each one not influenced by pure motives would say to the Executive, "Will you retain me in office if I support you?" This effect of that law which it was now proposed to repeal must be apparent to every Senator, and he thought, if they would follow it up, it would produce on their minds a deep conviction that the statute book ought to be relieved from it. It was the intention of those who framed that law to bring the officers of the Government before the Executive at the end of every four years, in order that they might be dismissed if found unworthy. But it certainly never was intended that an officer who had fairly disbursed the public money, and faithfully discharged the duties of his office, should be turned out in order to make room for a political partisan. It was intended to secure a greater accountability in the disbursing agents, and, by bringing their conduct more frequently in review, to secure to the Government the services of the most trust-

worthy individuals. But had this been the operation of the act? No. The period of four years had been selected as the period when the enemy was to be prostrated, and friends sustained. This mode of executing the act had defeated all the intentions of its framers. It had introduced a different system, with regard to the tenure of office, from that contemplated by those who passed the law. He was of opinion that it would be wise in Congress to dispense with those provisions which tended to make the whole band of office-holders servile suppliants of the Executive, destitute of that independence of character, that manly feeling, which should characterize every public officer. Mr. S. here read from the bill the provisions requiring the President to lay before Congress the accounts of all district attorneys, marshals, and other disbursing officers, &c.

The object was to exhibit to the Senate the appointing power, the number of those who should fail to render their accounts, and to give to those who should be unfortunate time to repair the accident which deprived them of the ability to make a correct settlement of their accounts. If an officer therefore, should be a defaulter in September, the account being made up to January, would leave him time to correct the evil, if the default should be the effect of unforeseen accident, and not of criminal conduct. This part of the bill was so plain that he would not detain the Senate longer in commenting on it. The third section of the bill provided, "That, in all nominations made by the President to the Senate, to fill vacancies occasioned by removal from office, the facts of the removal shall be stated to the Senate at the same time that the nomination is made, with a statement of the reasons for such removal."

He valued that provision of the bill very much. He would not, at that time, enter into the subject of removals from office. It had long been a subject of difference with politicians, and had occupied their attention at an early period of the Government. But this section did not interfere with this power of removal. It required simply that the President should state to the Senate, when he removed an officer, that he had removed him, and why. Was there any thing that should make the Executive reluctant to communicate such reasons to his constitutional advisers? We are bound to presume, (Mr. S. said,) that he has acted under the best considerations. All that was asked of him was to state that he had removed a public officer, and his reasons for so doing, in order that the Senate, the co-ordinate appointing power, (he said co-ordinate power, because no appointment could be made without the concurrence of the Senate,) might judge of the propriety of appointing another individual to the office thus vacated. The history of this power of removal was not common. In the early periods of our history it was almost unknown. It continued unknown until Mr. Jefferson's time, and had not been exercised at all by

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one of his predecessors. The Senate would understand him as referring to the administration of Mr. Adams. There was not one removal from office during the presidency of that gentleman.

The Senator from Missouri (Mr. BENTON) had complained that this report, which emanated from the committee, presented a great variety of bills, which were there framed, to limit the executive prerogative, without being calculated to accomplish any other useful purpose. In looking at the report this morning, he did not see any grounds for making this complaint. There was one bill proposing an amendment to the constitution, which did not meet with the gentleman's concurrence. But because he disapproved of one measure of the committee, did it follow that no other was worthy of approbation? He apprehended that the gentleman from Missouri would not reject his own measures (for he was on the committee, and approved of every bill with the exception of the one just named) because more was not done. Of the other bills proposed by the committee, one was for the regulation of the newspapers in which the laws of the United States and the public advertisements shall be inserted. Did the gentleman see no practical good to result from this bill? Another was to regulate the appointment of postmasters. The provisions in this bill had just been passed by the Senate by a unanimous vote, in the bill to reorganize the Post Office Department; and it was not, therefore, necessary to pass such provisions as were contained in this second bill of the committee, after one had passed the Senate for that purpose. The next bill was for the regulation of the appointment of cadets and midshipmen. He could not answer for what was the practice of the Departments now, with regard to such appointments, but he well knew what was the practice some time ago; and it was to carry the provisions of this very bill into effect. In conclusion, he trusted, therefore, that these bills would find favor with those who had heretofore supported similar measures.

SATURDAY, February 14.

Polish Exiles.

On motion of Mr. POINDEXTER, the bill to amend the act of last session, which was reported last session by the Committee on Public Lands, making a grant of land to certain exiles from Poland, was taken up.

Mr. POINDEXTER said that these exiles were in an unfortunate condition, and if the bill was not taken up now, it might probably not be of use to them.

Mr. POINDEXTER said that the first section of the bill, as reported last session, by which was made to these exiles a grant of land, required the actual habitation and cultivation of the land. The House had amended the bill,

and made it imperative to make ten years' residence. This made the condition on which the land was given worse than to a common purchaser. He proposed to make it, what it ought to be, a generous gift. The people were poor, and, consequently, unable to buy implements of husbandry. He proposed to move an amendment to the bill, which would enable them to mortgage their land for the purchase of tools. Every year their condition would improve, and at the end of ten years they would be comfortably settled.

Mr. KING, of Alabama, felt a difficulty in opposing the bill, but the Senate should take care not to encourage a hungry class of speculators. There had been already some experience on this subject. A number of military men, who were exiled from France, had a grant of a township of land made to them, under certain conditions, and that grant was the occasion of more trouble and of more fraudulent speculations than most men would have anticipated. Let it be a donation to them; and when the land is given, let them keep it. If they were to mortgage their land they might never go there. Their mortgage would be perfect, and they might never redeem it. In the case of the French emigrants, Congress had to give up the land, and let them take it at the usual price. If the Senator were to look at the bill with his usual attention, he would find it to be a bill that would do them no good, and be the means of throwing the land into the hands of speculators. If the Senate would allow it to lie on the table for a day or two, it might be duly considered.

Mr. POINDEXTER assented to the proposition, and the bill was accordingly laid on the table.

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The Senate proceeded to the special order, being the bill to repeal the act to fix the number and compensation of certain officers.

[Mr. EWING spoke at length upon the question of removals, maintaining that the constitution does not confer on the President alone the power of removal—that it is a mere matter of legislative provision, subject to be vested, modified, changed, or taken away at their will; and if it is not regulated at all by law, it vests in the President, in conjunction with the Senate, as part of the appointing power.]

Mr. KANE said he did not rise to enter into the debate, nor to discuss the particular question relative to the organization of the Government, which had already been decided, and the decision of which had been acquiesced in for half a century. That question he would not discuss then, unless fairly brought up. Among his objections to the bill was, not that it proposed to take away any power from the Executive, but because, with the admission of a distinct power on the face of the bill, it proposes that the Executive should lay before the Senate the reasons for its exercise, when he

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chose to exercise it. It was distinctly admitted in the bill that the Executive possessed a specific power, and that it required him to lay before the Senate his reasons before he exercised it. What would you do, asked Mr. K., with these reasons when you got them? Would the Senate do as it did when it got from the Secretary of the Treasury his reasons for the removal of the public deposits? The bill, he repeated, admitted that the President possessed the power of removal from office, and yet, by some undefined process, it was proposed to make him responsible to the Senate for its exercise. The first section of the bill provided for the alteration of the tenure of office, as held heretofore for a limited time, and made the tenure of office dependent on the will of the Executive, requiring of him to assign his reasons to the Senate before he makes a removal. The third section (said Mr. K.) provides, "That in all nominations made by the President to the Senate, to fill vacancies occasioned by the exercise of the President's power to remove the said officers mentioned in the second section of this act, the fact of the removal shall be stated to the Senate, at the same time that the nomination is made, with a statement of the reasons for which such officer may have been removed."

Now, Mr. K. did not intend to discuss that question. With the admission of certain executive powers in the bill, it proposed to make the President responsible to the Senate, and require him to give his reasons before he exercised them. Then, he asked, what would the Senate do with those reasons when they got them. It was an idle provision in the bill to say that the President should give his reasons to the Senate for the exercise of a power which it was admitted he possessed. He could see much more propriety in requiring of the President to give his reasons for the exercise of his constitutional powers to the people of the United States, but he did not see any propriety in requiring him to give such reasons to the Senate. For these reasons he would vote against the bill.

Mr. BABB rose to state, in a very few words, his reasons for supporting this bill. It was well known that he was one of those who did not deny that the President possessed the power of removal from office. He had expressed the opinion that the President did possess this power, and that opinion he still retained. But while he believed that the power of removal from office was vested in the President of the United States, he still believed that the power to regulate removals rested with the Congress of the United States. The constitution said that the executive power should be vested in a President of the United States; but, as this much would only be vague and indefinite, it goes on to say what those powers are—to express, in precise terms, the powers that shall be given to the President. By this enumeration, it excludes at once the idea that, without

such enumeration, the President would, in virtue of his office, have possessed all executive powers; for, if such were the case, the constitution, as was remarked by the Senator from Ohio, (Mr. EWING,) would be very deficient in what a constitution should be for a well-regulated Government. Let it be recollected that this was not intended to be a constitution of unlimited powers, but that the powers granted by it, both legislative and executive, were express and limited; for it declared that all powers not granted by it should be withheld. The idea that the Executive possessed powers in virtue of his office, had led to continual assumptions of power on the one hand, while it was resisted on the other, and the fluctuations of executive power had generally ended in new encroachments. This enumeration of executive power, before alluded to, was intended by the framers of the constitution as a security against executive encroachments; and for this purpose it was defined as strictly and as precisely as the nature of language would permit; but, define and define as you may, you cannot so mark executive powers as to be the same to all minds; your definition cannot be made with that mathematical precision as to be beyond doubt or misconception, and therefore the nature of executive powers will be viewed differently by different eyes.

It had been objected by the Senator from Illinois, (Mr. KANE,) that this bill, whilst it conceded to the President the power to remove from office, at the same time attempted to require that he should state the causes of such removal to the Senate. Well, sir, (said Mr. B.), I admit that the bill does not profess to take away the power of removal. The committee did not think it proper to interfere further than to provide that the President should state his reasons for the removals he might make. The gentleman had asked what the Senate would do with those reasons when they got them. He would answer, that that matter was to be determined by the Senate. It was not for him to inquire into what subsequent Senates might do; it was sufficient for him that the single circumstance of requiring of the President to communicate to the Senate his reasons for the exercise of the power of removal, would be a sufficient check against the abuse of that power. Was there no difference between suffering a man to act under a secret, hidden motive, governed by mere partiality or prejudice, and his acting for causes which he was bound to proclaim to the world? Was it not an important point to make the Executive examine and consider well the charges against a public officer, that he might take good care that the charges were well founded and of sufficient weight, before he removed him from office? The committee had endeavored to avoid any interference with the executive power; but, at the same time, to put such sufficient checks and balances on it as experience recommended, to prevent its abuse.

At what time, he asked, had removals from office been made that did not produce some agitation in the public mind? He had not, however, at any time, intended to discuss this part of the question; he did not when he gave his consent to the bill in committee, nor had he at any time since, intended to go into it as a party measure. Look, said Mr. B., at the complexion of the committee. It was composed of the three different parties which divided the Senate. First, there was the party supporting the administration, who assumed to be the exclusive democrats; then there was the national republicans; and lastly, there was another party, to which he belonged, and which he was sorry to say did not meet with much favor nowadays, denominating themselves the State-rights party, but who were stigmatized with the mad dog name of nullifiers. Now, it happened that the committee consisted of two members from each of these three parties. No one party could do any thing in the committee without drawing aid from one of the others; yet there was a concurrence of the whole of the committee in the report and bills, with but one single exception, and that was with regard to the amendment to the constitution.

Mr. SHERLEY said: It is not my purpose, nor do I intend, to enter into an elaborate argument upon this bill; but I do intend to assign a reason or two why the bill, in my judgment, if it could be carried into effect, would be productive of much mischief, and of no good. It proposes to repeal the law which limits the tenure of certain offices to four years; and to require the President, upon the removal of an officer, when he nominates a successor, to assign his reasons to the Senate for such removal. What, then, is to be the practical operation of the bill? It will prevent the termination of official life by the operation of law. When an individual obtains office, he will continue to hold it until deprived of it by death, unless the President removes him. But the President is not to remove him without assigning his reasons to the Senate; and there is no object in having the reasons assigned, unless those reasons are to be examined, and their sufficiency decided upon by the Senate, as well as by the whole people. The President, therefore, must not only be able to assign satisfactory reasons, but he must be enabled to establish, by satisfactory proof, every fact upon which those reasons are founded. If he does not do this, he may be condemned in the judgment of others, however good those reasons may be in his own mind, and however well proved may be the facts in his own judgment. The practical result, then, must be, that the President cannot remove from office until misconduct or corruption shall not only be made to appear satisfactorily to him to exist, but it must be so satisfactorily proved as to establish the fact to the satisfaction of the Senate. The reasons, then, must be

as satisfactory and as well established as if an impeachment of the officer was to be brought forward by the House, and tried and decided in this body. It would readily be perceived that, if such was to be the practical operation of the proposed bill, it virtually made the tenure of office a tenure during good behavior, which is the same as during life, unless misconduct is proved. This bill, then, really proposes a practical change of the mode of holding office under this Government, as to all the officers but the judicial officers; and gives the same security to all others as to the judicial officers, except that the judicial officers will hold their offices by virtue of the constitutional provision, while the others hold theirs by virtue of the law.

Mr. CLAY said that he had intended to make a few remarks; but, as it was late in the day, and as this was Saturday evening, he would postpone what he desired to say to another time. He begged leave, however, to throw out, rather for the information of the Senate and the committee, than to force a discussion, an amendment which he proposed as a substitute for the second section, which amendment was entirely in effect what he had submitted last session, in the form of resolutions. The amendment went a little farther than the second section as it now stood; but that section involved the principle of the amendment. He hoped the Senator in his eye would come out on this question, and let it be seen if there was any one on this floor who would rise and assert that the President had the power, without any ground, even of constitutional implication, to remove from office; that the stream could exist without the spring. If the President had such power, then the constitution was not worth a sou. The friends of the administration seemed to be rather shy about the constitution, except one who said that he would not touch it. Was it because the subject was above his power? Not so. That gentleman had already given evidence that he possessed the ability. Could he find no constitutional foundation for the erection of this power? I object (said Mr. C.) to give the President a band of one hundred thousand pensioned officers, more efficient as a guard than the Prætorian bands of Rome. If there be this power of removal expressly given in the constitution, and I have sought sedulously to find it; if it be an inherent power, let the gentleman show us the fact, that it may be open to the human vision. When the subject shall be resumed on Monday, I shall come here in the hope that some of the leaders of the administration party will come out, with book in hand, and show the text for this tremendous power. He would, for the present, content himself with laying the following amendment on the table:

Be it further enacted, That, in all instances of appointment to office by the President, by and with the advice and consent of the Senate, the power of removal shall be exercised only in concurrence with

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District of Columbia—Penal Code.

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the Senate; and, when the Senate is not in session, the President may suspend any such officer, communicating his reasons for the suspension during the first month of the succeeding session; and if the Senate concur with him, the officer shall be removed; but if it do not concur with him, the officer shall be restored to office.

Mr. BUCHANAN. I am exceedingly sorry, Mr. President, that the Senator from Kentucky (Mr. CLAY) appears to be disposed so often to pay his compliments to myself.

Mr. CLAY. I had no allusion to the Senator from Pennsylvania when I referred to the leaders of the administration party.

Mr. BUCHANAN. When the gentleman spoke of the leaders of the administration party, he looked at me, and I understood him as alluding to me, or I thought he did.

Mr. CLAY. I assure the gentleman I had no allusion to him whatever. I might look at him, as he looks at me sometimes; but I think at the time I spoke of the leaders of a particular party, I was looking rather to the Senator from New York (Mr. WRIGHT) than to him.

Mr. BUCHANAN. Without going further into the question of who the gentleman referred to in his remarks, I will simply state that, whenever he thinks proper to take up the subject, and attempt to prove that the practice under which this Government has flourished, and which was sustained by Madison, is not founded in reason and justice, is not necessary for the proper administration of the Government, and is not consistent with the constitution, then I will be ready to meet him.

Mr. CLAY. We shall meet, then, at Philippi.

MONDAY, February 16.

District of Columbia—Penal Code.

The bill to authorize the adoption of the penal code prepared for the District of Columbia was then taken up as in Committee of the Whole.

Mr. TYLER stated that, two years ago, the code to which this bill referred had been submitted to Congress. It was almost inconceivable the utter confusion of the laws of this District. The cession of the District of Columbia was made above thirty years ago, when it came into the hands of the General Government, with the laws of the States from which it had been detached. Whatever had been the subsequent modifications in the laws of these States, they were refused to the people of this District. He should be too prolix were he to go into an enumeration of all these laws. Some of them had been for more than a century in operation; while others, which had reference to a particular class of the community, and which would make a Christian man blush, had been suffered to sleep from motives of humanity. These, it was true, were dormant, but they might be resorted to. These were laws in reference to that class of the population to which his own objections were

as strong as those of any individual, whether a resident of the north or the south bank of the Potomac. He had a decided objection to the District of Columbia being made a slave mart, a depot for the slaves brought from the two neighboring States. This code went to reform that part of the system of laws under which the District had been made a depot for these slaves, and abolishes this practice.

The punishments to which the black population had been subjected, were, in no degree, to be justified. There were great ameliorations of the law in that respect.

In reference to the judicial system of the District, nothing could be in a worse condition than that in which it was found to be by the committee. Time would not permit a full development of its evils, but it appeared to him that the injuries it had inflicted on the people of the District were sufficient to break down the energies of the people of any State in the Union. The system as to the magistracy was such as would be a curse on any people. In passing through the streets, you were struck with the notices placed conspicuously over the doors, "Magistrate's Office," a notice which sounded in his ears very much like "Justice bought and sold here." At these offices the laws were administered by single justices. Armies of constables were affiliated by these justices; and the justice favored the constable, and the constable favored the justice: for in proportion to the multitude of suits, were the profits increased, both of the justice and the constable. And where the system was such as to make the justice dependent upon his fees for his subsistence, the effect was to make the official preserver of peace, in effect, a peace disturber—a promoter of discord and ill-feeling among the community. He desired it to be understood that, in these remarks, he did not speak of any individual, but of the system.

It was proposed to modify the prevailing system so as to save to the people of this District, in fees alone, at least \$40,000 per annum. While engaged with the committee in the investigation of this subject, he had heard of very great abuses. Nothing was found to be a more abundant source of profit than to get up suits of assault and battery: nothing was more profitable to magistrate, officers, jurors, and witnesses. If there was a loose population about the offices of the justices, they were always ready to act as jurors, and receive the compensation allowed by law. He had heard much in the form of accusation on this subject, but there was nothing which had come under his personal observation. Still, if there was but a whisper of wrong, it was sufficient cause to press on the work of reform. The scheme which had been reported by the committee would, at the lowest estimate, save to the people of the District \$40,000 annually in judicial fees.

On motion of Mr. CALHOUN, the bill was then laid on the table, for the purpose of taking up the special order of the day.

Executive Patronage.

The Senate resumed the consideration of the bill reported by the Committee on Executive Patronage, to repeal the act of 1820, limiting the terms of service of certain officers, &c.

Mr. WEBSTER said the professed object of this bill was the reduction of executive influence and patronage. I concur, said Mr. W., in the propriety of that object. Having no wish to diminish or to control, in the slightest degree, the constitutional and legal authority of the presidential office, I yet think that the indirect and vastly increasing influence which it possesses, and which arises from the power of bestowing office, and of taking it away again at pleasure, and from the manner in which that power seems now to be systematically exercised, is productive of serious evils.

The extent of the patronage springing from this power of appointment and removal is so great, that it brings a dangerous mass of private and personal interest into operation in all great public elections and public questions. This is a mischief which has reached, already, an alarming height. The principle of republican Governments, we are taught, is public virtue; and, whatever tends either to corrupt this principle, to debase it, or to weaken its force, tends, in the same degree, to the final overthrow of such Governments. Our representative systems suppose that, in exercising the high right of suffrage, the greatest of all political rights, and in forming opinions on great public measures, men will act conscientiously, under the influence of public principle, and patriotic duty; and that, in supporting or opposing men or measures, there will be a general prevalence of honest, intelligent judgment, and manly independence. These presumptions lie at the foundation of all hope of maintaining Governments entirely popular. Whenever personal, individual, or selfish motives influence the conduct of individuals on public questions, they affect the safety of the whole system. When these motives run deep and wide, and come in serious conflict with higher, purer, and more patriotic purposes, they greatly endanger that system; and all will admit that, if their extent become general and overwhelming, so that all public principle is lost sight of, and every election becomes a mere scramble for office, the system inevitably must fall. Every wise man, in and out of Government, will endeavor, therefore, to promote the ascendancy of public virtue and public principle, and to restrain, as far as practicable, in the actual operation of our institutions, the influence of selfish and private interests.

I concur with those who think that, looking to the present, and looking also to the future, and regarding all the probabilities of what is before us, as to the qualities which shall belong to those who may fill the executive chair, it is important to the stability of Government, and the welfare of the people, that there should be

a check to the progress of official influence and patronage. The unlimited power to grant office, and to take it away, gives a command over the hopes and fears of a vast multitude of men. It is generally true that he who controls another man's means of living controls his will. Where there are favors to be granted, there are usually enough to solicit for them; and when favors, once granted, may be withdrawn at pleasure, there is ordinarily little security for personal independence of character. The power of giving office thus affects the fears of all who are in, and the hopes of all who are out. Those who are out endeavor to distinguish themselves by active political friendship, by warm personal devotion, by clamorous support of men in whose hands is the power of reward; while those who are in ordinarily take care that others shall not surpass them in such qualities, or such conduct, as are most likely to secure favor. They resolve not to be outdone in any of the works of partisanship. The consequence of all this is obvious. A competition ensues, not of patriotic labors, not of rough and severe toil for the public good, not of manliness, independence, and public spirit; but of complaisance, of indiscriminate support of executive measures, of pliant subservience, and gross adulation. All throng and rush together to the altar of manworship; and there they offer sacrifices, and pour out libations, till the thick fumes of their incense turn their own heads, and turn also the head of him who is the object of their idolatry.

The existence of parties in popular Governments is not to be avoided; and, if they are formed on constitutional questions, or in regard to great measures of public policy, and do not run to excessive length, it may be admitted that, on the whole, they do no great harm. But the patronage of office, the power of bestowing place and emoluments, create parties, not upon any principle, or any measure, but upon the single ground of personal interest. Under the direct influence of this motive, they form round a leader, and they go for "the spoils of victory." And if the party chieftain becomes the national chieftain, he is still but too apt to consider all who have opposed him as enemies to be punished, and all who have supported him as friends to be rewarded. Blind devotion to party, and to the head of a party, thus take place of the sentiments of generous patriotism, and a high and exalted sense of public duty.

Let it not be said, sir, that the danger of executive patronage cannot be great, since the persons who hold office, or can hold office, constitute so small a portion of the whole people. In the first place, it is to be remembered that patronage acts not only on those who actually possess office, but on those also who expect it, or hope for it; and, in the next place, officeholders, by their very situation, their public station, their connection with the business of individuals, their activity, their ability to help or to hurt, according to their pleasure; their

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acquaintance with public affairs, and their zeal and devotion, exercise a degree of influence out of all proportion to their numbers.

Sir, we cannot disregard our own experience. We cannot shut our eyes to what is around us and upon us. No candid man can deny that a great, a very great, change has taken place within a few years, in the practice of the executive Government, which has produced a corresponding change in our political condition. No one can deny that office of every kind is now sought with extraordinary avidity, and that the condition, well understood, to be attached to every officer, high or low, is indiscriminate support of executive measures, and implicit obedience to executive will. For these reasons, sir, I am for arresting the further progress of this executive patronage, if we can arrest it. I am for staying the further contagion of this plague.

The bill proposes two measures. One is to alter the duration of certain offices, now limited absolutely to four years, so that the limitation shall be qualified or conditional. If the officer is in default, if his accounts are not settled, if he retains or misapplies the public money, information is to be given thereof, and thereupon his commission is to cease. But if his accounts are all regularly settled, if he collects and disburses the public money faithfully, then he is to remain in office, unless, from some other cause, the President sees fit to remove him. This is the provision of the bill. It applies only to certain enumerated officers who may be called accounting officers; that is to say, officers who receive and disburse the public money. Formerly all these officers held their places at the pleasure of the President. If he saw no just cause for removing them, they continued in their situations; no fixed period being assigned for the expiration of their commissions. But the act of 1820 limited the commissions of these officers to four years. At the end of four years they went out, without any removal, however well they may have conducted, or however useful to the public their further continuance in office might be. They might be nominated again, or might not; but their commissions expired.

Now, sir, I freely admit that considerable benefit has arisen from this law. I agree that it has, in some instances secured promptitude, diligence, and a sense of responsibility. These were the benefits which those who passed the law, expected from it; and these benefits have, in some measure, been realized. But I think that this change in the tenure of office, together with some good, has brought along a far more than equivalent amount of evil. By the operation of this law, the President can deprive a man of office without taking the responsibility of removing him. The law itself vacates the office, and gives the means of rewarding a friend without the exercise of the power of removal at all. Here is increased power, with diminished responsibility. Here is a still greater de-

pendence for the means of living on executive favor, and of course a new dominion acquired over opinion and over conduct. The power of removal is, or at least formerly was, a suspected and odious power. Public opinion would not always tolerate it; and still less frequently did it approve it. Something of character, something of the respect of the intelligent and patriotic part of the community, was lost by every instance of its unnecessary exercise. This was some restraint. But the law of 1820 took it all away. It vacated offices periodically by its own operation, and thus added to the power of removal, which it left still existing in full force, a new and extraordinary facility for the extension of patronage, influence, and favoritism.

I would ask every member of the Senate if he does not perceive, daily, effects which may be fairly traced to this cause? Does he not see a union of purpose, a devotion to power, a co-operation in action, among all who hold office, quite unknown in the earlier periods of the Government? Does he not behold, every hour, a stronger development of the principles of personal attachment, and a corresponding diminution of genuine and generous public feeling? Was indiscriminate support of measures, was unwavering fealty, was regular suit and service, ever before esteemed such important and essential parts of official duty?

Sir, the theory of our institutions is plain: it is, that Government is an agency, created for the good of the people; and that every person in office is the agent and servant of the people. Offices are created, not for the benefit of those who are to fill them, but for the public convenience; and they ought to be no more in number, nor should higher salaries be attached to them, than the public service requires. This is the theory. But the difficulty, in practice, is to prevent a direct reversal of all this; to prevent public offices from being considered as intended for the use and emolument of those who can obtain them. There is a headlong tendency to this, and it is necessary to restrain it by wise and effective legislation. There is still another, and perhaps a greatly more mischievous result from extensive patronage in the hands of a single magistrate, and to which I have already incidentally alluded. And that is, that men in office have begun to think themselves mere agents and servants of the appointing power, and not agents of the Government or the country. It is, in an especial manner, important, if it be practicable, to apply some corrective to this kind of feeling and opinion. It is necessary to bring back public officers to the conviction that they belong to the country, and not to any administration, nor to any one man.

The army is the army of the country; the navy is the navy of the country; neither of them is either the mere instrument of the administration for the time being, or of him who is at the head of it. The Post Office, the Land

Office, the Custom-house, are, in like manner, institutions of the country, established for the good of the people; and it may well alarm the lovers of free institutions, when all the offices in these several departments are spoken of, in high places, as being but "spoils of victory," to be enjoyed by those who are successful in a contest, in which they profess this grasping of the spoils to have been the object of their efforts.

This part of the bill, therefore, sir, is a subject for fair comparison. We have gained something, doubtless, by limiting the commissions of these officers to four years. But have we gained as much as we have lost? And may not the good be preserved, and the evil still avoided? Is it not enough to say, that if, at the end of four years, moneys are retained, accounts unsettled, or other duties unperformed, the office shall be held to be vacated, without any positive act of removal?

For one, I think the balance of advantage is decidedly in favor of the present bill. I think it will make men more dependent upon their own good conduct, and less dependent on the will of others. I believe it will cause them to regard their country more, their own duty more, and the favor of individuals less. I think it will contribute to official respectability, to freedom of opinion, to independence of character; and I think it will tend, in no small degree, to prevent the mixture of selfish and personal motives with the exercise of high political duties. It will promote true and genuine republicanism, by causing the opinion of the people, respecting the measures of Government and the men in Government, to be formed and expressed without fear or favor, and with a more entire regard to their true and real merits or demerits. It will be, so far as its effects reach, an auxiliary to patriotism and public virtue, in their warfare against selfishness and cupidity.

The second check on executive patronage, contained in this bill, is of still greater importance than the first. This provision is, that, whenever the President removes any of these officers from office, he shall state to the Senate the reasons for such removal.

This part of the bill has been opposed, both on constitutional grounds, and on grounds of expediency.

The bill, it is to be observed, expressly recognizes and admits the actual existence of the power of removal. I do not mean to deny, and the bill does not deny, that, at the present moment, the President may remove these officers at will, because the early decision adopted that construction, and the laws have since, uniformly, sanctioned it.

The law of 1820, intended to be repealed by this bill, expressly affirms the power. I consider it, therefore, a settled point; settled by construction, settled by precedent, settled by the practice of the Government, and settled by statute. At the same time, I am very willing to say that, after considering the question again

and again, within the last six years, in my deliberate judgment, the original decision was wrong. I cannot but think that those who denied the power, in 1789, had the best of the argument; and yet, I will not say that I know myself so thoroughly as to affirm that this opinion may not have been produced, in some measure, by that abuse of the power which has been passing before our eyes for several years. It is possible, that this experience of the evil may have affected my view of the constitutional argument. It appears to me, however, after thorough, and repeated, and conscientious examination, that an erroneous interpretation was given to the constitution, in this respect, by the decision of the first Congress.

Mr. President, without pursuing the discussion further, I will detain the Senate only while I recapitulate the opinions which I have expressed; because I am far less desirous of influencing the judgment of others, than of making clear the grounds of my own judgment.

I think, then, sir, that the power of appointment naturally and necessarily includes the power of removal, where no limitation is expressed, nor any tenure but that at will declared. The power of appointment being conferred on the President and Senate, I think the power of removal went along with it, and should have been regarded as a part of it, and exercised by the same hands. I think, consequently, that the decision of 1789, which implied a power of removal separate from the appointing power, was erroneous.

But I think the decision of 1789 has been established by practice, and recognized by subsequent laws, as the settled construction of the constitution; and that it is our duty to act upon the case accordingly, for the present, without admitting that Congress may not hereafter, if necessity shall require it, reverse the decision of 1789. I think the Legislature possesses the power of regulating the condition, duration, qualification, and tenure of office, in all cases where the constitution has made no express provision on the subject.

I am, therefore, of opinion that it is competent for Congress to declare by law, as one qualification of the tenure of office, that the incumbent shall remain in place till the President shall remove him, for reasons to be stated to the Senate. And I am of opinion that this qualification, mild and gentle as it is, will have some effect in arresting the evils which beset the progress of the Government, and seriously threaten its future prosperity.

These are the reasons for which I give my support to this bill.

Mr. WRIGHT said he had hoped that some one of the individuals who had been so emphatically called upon by the honorable Senator from Kentucky, (Mr. CLAY,) on a former day, as the leaders of the administration party, would have come forward in the debate then pending, and thus have saved him the trouble of addressing the Senate. But, as no such individual appear-

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ed, and as the bill was about to be reported, he felt bound to give his humble voice against it, before it proceeded further.

His object was to repel an implication which might attend the passage of this bill, and for that purpose to refer to such portions of the report of the committee as appeared to him to relate to the provisions of the bill itself, and the considerations involved in the legislation proposed. He did not intend to notice, upon this occasion, any other parts of the report than those which treated of the patronage of the Executive, growing out of his connection with, and influence over, persons dependent upon, and receiving their support from, the Government. The bill under consideration was all the legislation proposed by the committee, in reference to this part of the executive patronage; and he must suppose that so much of the report as discussed this point was the legitimate subject of comment in connection with the bill.

Mr. W. said he must be permitted to remark, before he proceeded, that he had been wholly unable to feel or discover the necessity for the sombre and alarming picture of danger to our happy form of Government which the committee had thought it their duty to present. He could not feel that the safety or perpetuity of our institutions was peculiarly threatened at the present, more than at any former period of our history. On the contrary, he had supposed he could justly felicitate the Senate and the country upon the fact, which he had expected would have been admitted by all, that our condition was rapidly improving. No man in these seats had forgotten the picture drawn to our imaginations twelve months since; a picture which not only shocked us, but shocked this whole widely-extended country to a degree never before witnessed in the period of his recollection. Then, however, executive patronage was not the danger, but executive usurpation. The sword and the purse of the nation were in one hand, and our liberties were about to be cloven down. The fractured and broken pillars of the constitution were scattered before us, to display the ruin which had been made, and to warn us of the danger which impended.

That time and that danger had gone by. A distinct issue was formed and submitted to the sober and intelligent sense of the American people, and their decision had put an end to the agitation. Executive patronage was then a consideration too trifling to have a place in the leading discussions. Some mention of an army of forty thousand office-holders might have been made, but they were incidental and unimportant. Usurpation was the order of the day, and tyranny and despotism were upon us. Mr. W. said he supposed he might congratulate every patriot and lover of his country that this great danger had been passed, and its horrible evils averted, by the single and silent operation of an election; and he had hoped that increased confidence in the safety and durability of our institutions would have followed this gratifying

experience. How different was the fact! He now found, in the report of the committee before him, abundant evidence—if the sad imaginings of the committee were facts—that we were much nearer final ruin than at the period to which he had alluded. Now, usurpations by the Executive had ceased to be dangerous, but the great patronage in the hands of the President was fast driving this fine ship of state upon the rocks, and imminently threatening the only free Government in the world with utter and irretrievable ruin.

Under this renewed attempt to excite alarm and apprehension in the minds of the peaceful citizens of the country, he felt it to be his imperative duty to proclaim an entire absence of the threatened dangers. The country was sound, and healthful, and prosperous, and happy, and the patronage of the Executive was not to corrupt its morals, endanger its peace, or destroy its liberties. The mistake of the committee had proceeded from the assumption of premises wholly erroneous, and the consequent deduction of unfounded conclusions.

Mr. W. said he would proceed to show this by a partial analysis of their principal fact, and by an exposition of the fallacious conclusions drawn from it. They state that the number of persons dependent upon the Government for support is one hundred thousand and seventy-nine, and they assume that all such persons are "supple instruments of power." This great number of persons, thus exhibited and thus characterized, was calculated to startle the mind. It had shocked him when he first heard the report read at the Secretary's table. He had heard much said, during the last year, both at home and here, by the opponents of the administration, of the danger to the country from an army of forty thousand office-holders, but his fears had not been excited, and he had never attempted to examine the composition of the corps. When, however, he found the number swelled by the report of the committee to more than one hundred thousand, he felt impelled to inquire who were these hundred thousand men paid by this free Government that they might wield public opinion to its destruction. He had made the inquiry, and to exhibit the results to the Senate and the country, and thus to repel the alarming implication of danger to our institutions which might otherwise arise from our action upon this bill, was the principal object he had in view upon the present occasion.

First, then, he found the whole army, officers, soldiers, waiters, and dependants, included in the list. And are the soldiers of our little army, said Mr. W., to be held up to the country as a body of men wielding its public opinion, and directing it to the destruction of our institutions? Are they to be pointed at as objects of jealousy and apprehension? Where are they, Mr. President? Almost the whole body of them pushed beyond the line of settlement upon your frontier, and there stationed, the companions of

the wild Indian only, to defend your citizens from the tomahawk and scalping knife. Are they, thus located, the body of men who are to bring this happy Government to a speedy termination? No, sir, they will defend it with their lives, but never will endanger it by their influence over public opinion. The officers of the army are also embraced in this class. They, sir, are office-holders, but are they formidable to the country? Are those brave men who bore the arms of the country, during the late war, against the most formidable enemy in the world, and bore them successfully, triumphantly, victoriously, are they to destroy this Government? Are they to be guarded against as "supple instruments of power," as "subservient partisans, ready for every service, however base and corrupt?" Mr. President, said Mr. W., they merit not the sentence. Where are they? Shut up in your fortifications and military posts, performing their dull and uninteresting round of official duty, or ordered beyond your frontier and deprived of the benefits of civilized society, to protect their fellow-citizens from rapine and plunder. Thus situated, are they to be held up to us as objects of alarm? Are our jealousies to be directed against them, as the persons likely to work out the full ruin of their country? Sir, the committee have made an egregious mistake as to these brave and patriotic officers. They will not destroy, but defend the Republic. Who has seen them mingling improperly in the political strifes of the day, or attempting unduly to influence public opinion? Mr. W. said he had never witnessed such an instance of improper conduct in an officer of the army, and he was yet to learn that such instances had been witnessed by others. But another large enumeration of citizens aided to complete this division of the dangerous corps of more than one hundred thousand. All the contractors, workmen, and laborers, upon our public works in the charge of the War Department, such as fortifications, rivers, canals, roads, harbors, and all the other works of a similar description in construction at the expense of the Government, were counted to make up this formidable number of "supple instruments of power." Yes, Mr. President, said Mr. W., the humble carrier of the hod upon one of your batteries, who toils on for his daily allowance of a few shillings, unconscious of his agency, is one of the number of individuals whom the committee suppose material and dangerous agents in the work of ruin to the most free and happy Government upon the earth. Each laborer of this description is held to be a "supple instrument of power," a subservient partisan, "ready for every service, however base and corrupt." Sir, tell this to the great body of the yeomanry of this country, and what will they say of this danger? They will smile at the credulity of the committee, and say they are mistaken in their apprehensions. This closes the first class of the great catalogue, consisting of sixteen thousand seven hundred and twenty-two individuals.

2d. Mr. W. said he found the whole navy, including the marine corps, and comprehending altogether eight thousand seven hundred and eighty-four individuals. Here, again, was a class of men whom he had not been taught to consider "supple instruments of power," "subservient partisans, ready for every service, however base and corrupt." Sir, said he, are the gallant tars who bear the flag of our country proudly and triumphantly upon every sea, and to every corner of the globe, the mere "supple instruments of power?" Are the brave and fearless officers who command them "subservient partisans, ready for every service, however base and corrupt?" Is such the character of the officers of the American navy, and are they, at this moment, to be thus characterized to the American people, and to the world? Not, said Mr. W., by me. They deserve not the character, in my judgment, and they shall not receive it with my assent. Does any man believe, does the honorable committee believe, that, in consequence of the moderate compensation which these brave and high-minded and patriotic citizens receive for the devotion of their lives to the public service, they are prostituted to the executive will, and ready to do his bidding, to the injury and destruction of the liberties of their country? Do they believe that no higher and purer motive than subservience to executive power has led them on to the noble achievements they have accomplished? If such be the opinions of the committee, they do the officers and seamen of our gallant navy great injustice. It is against the enemies of their country, not against their country, that they war, and war successfully; and long, long will the liberties of our happy Republic be preserved, if they are only to meet their destruction from the hands of the American navy. But, sir, this class is not wholly composed of the officers and sailors, and soldiers, attached to the navy and marine corps. Every person employed in and about your navy yards and ship yards is included in the enumeration. The humble individual who rolls the wheelbarrow and handles the cart, or drives the oxen, at these places, is magnified into a man dangerous to our liberties, holding a fearful control over public opinion, a "supple instrument of power," "ready for any service, however base and corrupt." Such dangers, said Mr. W., will never destroy this Republic.

3d. The whole roll of revolutionary pensioners, thirty-eight thousand eight hundred and thirty-six in number. This class, Mr. W. said, surprised him much more than the former. The departing shades of the revolutionary army were presented to us as about to become the instruments in the destruction of our liberties. Those venerable men, whose earliest, and greatest, and richest efforts had been devoted to the erection of this beautiful and noble temple of civil liberty, were now, for the pitiful compensation of \$8 per month, to become the "supple instruments of power," to use their efforts to

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overthrow the fabric cemented with their youthful blood, and to draw its mighty ruins down upon their own heads at the last moment of their earthly existence. Would it be believed that this remnant of a noble race had been thus corrupted by such a bounty? No, said Mr. W., they deserve not such a judgment at our hands. But, instruments of the Executive! How? What has the Executive to do with the payment of pensioners? They derive their claims from the acts of Congress, not from the will and pleasure of the Executive; and if they make the proof requisite, the right is perfect. The President can neither place them upon the roll without the proof, nor debar them from it when the proof is made. His only interference with the subject is his approbation of the laws, as he approves other laws passed by Congress. As well, therefore, might all the private claimants, for whose benefit laws have been passed, be hunted from the statute books and added to the list of "supple instruments of power," as these venerable pensioners of the Revolution.

4th. Mr. W. said he now came to a class of office-holders and "supple instruments of power," not less extraordinary than any of the former. It consisted of all the deputy postmasters throughout the country, all the mail contractors, mail carriers, stage drivers, and all others employed in the transportation of the mail of the United States. The number was given in the report at thirty-one thousand eight hundred and thirty-seven individuals. Here was a class of men, with several of whom every citizen of the country must be personally acquainted. He appealed, then, fearlessly, and confidently, to the people of the country, for the degree of danger to public liberty to be apprehended from this class of dependants upon the public patronage. Who did not know that the postmasters and mail contractors of the country were of all parties in politics, and of every description of sentiment and feeling as to men and measures? Who, in these seats, did not know that the great mass of them were men of respectability, integrity, and faithfulness, and worthy of the trusts confided to them? Who, heretofore, had feared the influence of these men upon the public opinion of the electors of the country? Who, until this day, had imagined that the driver of a mail coach would injuriously influence the opinions of the passengers who might chance to ride in his carriage? In this great mass of individuals there might be men unworthy of trust: it would be strange if it were not so; but did any man ever dream that they were so numerous as to endanger our Government, or that the merry holder of the reins and whip of the vehicle which transports the mail over our public highways, was a "supple instrument of power," a subservient partisan, "ready for every service, however base and corrupt," because his monthly wages were paid to him by a mail contractor? Did any man ever permit himself to believe that the elections of the States were controlled by such men?

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No, said Mr. W., the idea is mistaken; and the honorable committee have yielded themselves to fears which have no foundation, and to prophecies of evil which will not be realized.

Mr. W. said he referred to the assumption found in the report, that offices are bestowed "as rewards for partisan service, without respect to merit." This broad charge appears upon the face of this paper wholly unsupported by proof, or by an attempt at proof, against whom? Against a Chief Magistrate elected by the people; and, after an exercise of the appointing power for the term of four years, again re-elected by a much stronger expression of the public approbation than that which first elected him to the presidency. How, then, does this assumption comport with the respect we owe to the popular will? To the judgment and intelligence of those we represent here? To the free and intelligent people of this free country? But how, said Mr. W., are these office-holders selected by the Chief Magistrate? Upon the petitions and recommendations of the people themselves; upon certificates of character, respectability, and worth, made by those who are the neighbors and friends of the candidate, and know him personally and intimately; and most usually upon the recommendation of the representatives here of the person appointed. Are we then to assume that offices are "bestowed as rewards for partisan services, without respect to merit?" The people ask, the representative recommends, and the office is conferred, and who shall say that it is done "without respect to merit?" Surely this committee will not be sustained, in making the assertion, by that people whose will is followed in the appointments made, when the assertion rests upon itself alone, without an effort to support it by evidence. It is, Mr. President, said Mr. W., another of those mistakes into which the gloomy imaginations of the committee seem too frequently to have led them. These assumptions, as erroneous as they are unfounded, in his judgment, appeared to him to constitute the reasons offered by the committee for the presentation of the bill now before the Senate. The abuses existing in the minds of the committee were those which had been examined, and the bill purported to provide for their correction for the future.

TUESDAY, February 17.

Public Printing—Its increasing expense and party objects—National Printing Office proposed.

The resolution offered yesterday, appointing Thursday next to go into the election of a printer, being before the Senate—

Mr. BENTON said: The committee of 1819 had reported three distinct modes of executing the printing. The first mode was the same as had been practised under the joint resolution of 1815, by which the Secretary of the Senate, and the Clerk of the House of Representatives,

had the work executed by contract. The second mode reported was by a national printing office, with a bindery and stationery attached, which should execute the work of Congress during their sessions, and the work of all the executive departments during the recess. [Here Mr. B. read the estimates made by the committee of 1815 of the expenses of the Government for printing, binding, and stationery.] The committee were of the opinion that such a national establishment, under the management of a competent, active, and upright man, would secure more promptitude, uniformity, a better style of work; and, in connection with the bindery and stationery, would be the most economical. But the committee had refrained from submitting a proposition in conformity with the suggestion, on account of the novelty of it, of the late period of the session, and of the discussion to which it must inevitably lead. The third mode, and that which, under all the circumstances, the committee had recommended, was the joint resolution prescribing a tariff of prices for the printing, to continue in force for two years only. He had read the joint resolution and report, for the purpose of reminding the Senate of the course taken by the committee of 1819, and of the character of the resolution out of which had sprung the loose and illegal practice of electing a printer for the next Congress, and the continuation of the tariff of prices fixed in 1819, notwithstanding any changes which might have taken place since that period.

Mr. PRESTON rose to say a word. He expressed his entire willingness in regard to the printing of the Senate, or any other subject concerning which a charge of extravagance had been made, to go into an investigation in the spirit of reform and retrenchment. He would be willing to act with any committee in the examination of such a charge, whether it had reference to the general printing of the Senate or the particular conduct of the printer. There was one portion of the Senate which was inclined to check the growth of executive patronage, and another portion which seemed to be zealous to curb what they deemed legislative and senatorial extravagance. By a mutual indulgence of each other's wishes on these points, and by conceding to each other a little, a great deal of good might result to the country. But he did not think that, in looking into the expense of the printing, we ought to confine ourselves to this or the other branch of the Legislature, but that we should also look to the printing of the executive departments. If it was conjectured that the printing of the two Houses had increased so much within the last few years, it was not to be doubted that the printing of the executive branch had increased still more. Since the year 1819 the expenses of all the Departments had gone on in about the same ratio of increase. Whatever difference of opinion might exist as to matters of detail, it was generally admitted that there had been a

considerable increase of the printing. While this was not the less to be deplored, it must diminish the surprise of gentlemen at the facts stated by the Senator from Missouri.

Mr. CLAY rose, and said that he could not concur exactly with the Senator from South Carolina, in all which had fallen from him in reference to the charge of extravagance of printing. It was possible that there had been some increase in the printing of Congress; he was inclined to think that there had been an increase, and probably a considerable one within the last ten or twelve years. But it was the cause of this extravagance of printing, respecting which the Senator from South Carolina had omitted some remarks which should have accompanied his statements. And what was this cause? The increase which had taken place was attributable to the abuses of the administration. That was the cause, and it ought not to surprise any one that the friends of the administration should get up and oppose any printing which was calculated to disseminate the knowledge of these abuses among the people. The less the printing that was done, so much the better for them. Of the report last year, concerning the General Post Office, there had been printed by the Senate 30,000 copies; but the honorable Senator from New York, he feared, had suffered his *quota* of these reports to remain in his office. There had been printed 30,000 of these reports here, and 50,000 by the House of Representatives. That was the cause of the great mass of printing; and the misfortune was that the increased printing could not keep up with the increased abuse.

Mr. C. moved to lay the motion on the table. Agreed to.

Mr. PRESTON gave notice that he would move, on Thursday next, to take up the resolution.

Mr. BENTON gave notice that, before the day named, he would ask the Senate to consider his joint resolution to repeal the joint resolution of 1819. He then moved that the report of the committee of 1819 be reprinted, and the motion was agreed to.

Executive Patronage.

The bill to repeal the first two sections of the act of 1820, commonly called the four years' law, came up on its final passage, the question being on the passage of the bill to repeal the first and second sections of the act to limit the terms of office of certain officers therein named.

Mr. BUCHANAN: The present bill presents a most important question concerning our fundamental institutions. It attacks a construction of the constitution of the United States which had been considered settled for almost half a century. Has the President, under the constitution, the power of removing executive officers? If any question can ever be put at rest in this country, this, emphatically, ought to be considered that one. It was solemnly settled in 1789, by the first Congress of the United States.

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Of whom was that Congress composed? Of the men who had sustained the toils and dangers of the revolutionary war—of the men who sat in the convention which framed the constitution, and who passed from that convention into the first Congress. These men, who laid the foundations of our Republic broad and deep, most solemnly and deliberately decided that to the President, and to him alone, belonged the power of removal. This was not a moment when the country was convulsed by party spirit. Very far from it. The fathers of the Republic were then occupied in putting the Government in motion, and in establishing such principles as might preserve the liberties and promote the best interests of the American people for ages. In what condition are we, at the present moment, to rejudge the judgment of these men, and reverse their solemn decision? Is not party spirit raging throughout the land? Are there not high party feelings in this body? Are we in a condition calmly and deliberately, without prejudice and without passion, to review and to condemn their judgment?

Why, sir, even if there were no authority in the constitution for the power of removal, the decision of this body, at this time, would have but little influence among the people. They would compare the calmness, the self-possession, the freedom from political excitement, of the sages who established the precedent, with the party violence and the high political feeling of the Senate at the present day; and the weight of authority would be all against us.

The debate in the first Congress was very long and very able. Every argument which patriotism and ingenuity could suggest was exhausted. The question was at length decided in the House of Representatives on the 22d June, 1789. On the yeas and nays, thirty voted in the affirmative of the President's power of removal, and eighteen against it—a large majority, considering the comparatively small number of which the House was then composed.

The question arose on the bill to establish the Department of Foreign Affairs. It contained a clause declaring the Secretary of State "to be removable from office by the President of the United States." From this clause it might have been inferred that the power of removal was intended to be conferred upon the President by Congress, and not acknowledged to exist in him under the constitution. To remove every difficulty,—to place doubt at defiance in all future time—the words "to be removable from office by the President of the United States" were stricken from the bill, and this right was expressly acknowledged to exist independently of all legislation. By the second section of the bill, which became a law on the 27th July, 1789, it is declared that "the chief clerk in the Department of Foreign Affairs," whenever the principal officer shall be removed from office by the President of the United

States, or in any other case of vacancy, shall, during such vacancy, have the charge and custody of all records, books, and papers, appertaining to the same Department." Here, then, is a clear, strong, distinct recognition, by the House of Representatives, of the President's power of removal, not by virtue of law, but under the constitution. This phraseology was carefully adopted for the purpose of putting this very question at rest for ever, so far as Congress could effect this purpose.

The bill, having passed the House of Representatives, was sent to the Senate for their concurrence. The power of removal was there solemnly considered. This was the very body which, according to the doctrine of gentlemen, has a right to control this power; and yet they affirmed the principle that it was vested in the President, and in him alone. It is true that the question was determined by the casting vote of Mr. Adams, then the Vice-President: but the act was approved by General Washington, and the power has ever since been exercised without dispute by him and his successors in office, until after the election of the present President. Washington, the elder Adams, Jefferson, Madison, Monroe, and the younger Adams, removed whom they pleased from office; but, after the accession of Jackson, the existence of this power is denied. We are now required to believe that all which former Presidents have done was wrong; that the first Congress were entirely mistaken in their construction of the constitution; and that the President does not possess the power of removal, except with the concurrence of the Senate.

If ever a question has occurred in the history of any country, which ought to be considered settled, this is that one. A solemn decision at first, adopted in practice afterwards by all branches of the Government, for five-and-forty years, makes the precedent one of almost irresistible force.

What, then, have we a right to expect on our side of the House from the opposition? Not merely that they shall prove it to be a doubtful question, but that they shall present a case so clear as to render it manifest that all which has been done has been without authority, and all the removals which have ever been made have been in violation of the constitution. The burden rests entirely upon the gentleman, and a ponderous load they have to sustain.

But, sir, if the question were entirely new, if it never had been decided either by precedent or by practice, I think it may be made abundantly clear that the strength of the argument is greatly on the side of those who maintain the power.

What is the nature of the constitution of the United States? The powers which it devolves upon the Government are divided into three distinct classes, the legislative, the executive, and the judicial. To preserve the liberties of any country, it is necessary that these three branches of Government should be kept dis-

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incident to that department, I conceive we ought not to qualify them further than they are qualified by the constitution. The legislative powers are vested in Congress, and are to be exercised by them uncontrolled by any other department, except the constitution has qualified it otherwise. The constitution has qualified the legislative power, by authorizing the President to object to any act it may pass, requiring, in this case, two-thirds of both Houses to concur in making a law; but still the absolute legislative power is vested in Congress with this qualification alone.

"The constitution affirms that the Executive power shall be vested in the President. Are there exceptions to this proposition? Yes, there are. The constitution says that, in appointing to office, the Senate shall be associated with the President, unless, in case of inferior officers, when the laws shall otherwise direct. Have we a right to extend this exception? I believe not. If the constitution has vested all executive power in the President, I venture to assert that the Legislature has no right to diminish or modify his executive authority."

Again:

"The doctrine, however, which seems to stand most in opposition to the principles I contend for, is, that the power to annul an appointment is, in the nature of things, incidental to the power which makes the appointment. I agree that, if nothing more was said in the constitution than that the President, by and with the advice and consent of the Senate, should appoint to office, there would be great force in saying that the power of removal resulted by a natural implication from the power of appointing. But there is another part of the constitution, no less explicit than the one on which the gentleman's doctrine is founded: it is that part which declares that the executive power shall be vested in a President of the United States.

"The association of the Senate with the President in exercising that particular function, is an exception to this general rule; and exceptions to general rules, I conceive, are ever to be taken strictly. But there is another part of the constitution which inclines, in my judgment, to favor the construction I put upon it. The President is required to take care that the laws be faithfully executed. If the duty to see the laws faithfully executed be required at the hands of the Executive Magistrate, it would seem that it was generally intended he should have that species of power which is necessary to accomplish that end. Now, if the officer, when once appointed, is not to depend upon the President for his official existence, but upon a distinct body, (for where there are two negatives required, either can prevent the removal,) I confess I do not see how the President can take care that the laws be faithfully executed. It is true, by a circuitous operation, he may obtain an impeachment, and even without this it is possible he may obtain the concurrence of the Senate for the purpose of displacing an officer; but would this give that species of control to the Executive Magistrate which seems to be required by the constitution? I own, if my opinion was not contrary to that entertained by what I suppose to be the minority on this question, I should be doubtful of being mistaken, when I discovered how inconsistent that construction would make the constitution with itself. I can hardly bring myself to imagine the wisdom of the convention who framed the constitution contemplated such incongruity."

But, sir, if doubts could arise on the language of the constitution itself, then it would become proper, for the purpose of ascertaining the true meaning of the instrument, to resort to arguments *ad inconvenienti*. The framers of the constitution never intended it to mean what would be absurd, or what would defeat the very purposes which it was intended to accomplish. I think I can prove that to deprive the President of the power of removal would be fatal to the best interests of the country.

And, first, the Senate cannot always be in session. I thank Heaven for that. We must separate and attend to our ordinary business. It is necessary for a healthy political constitution that we should breathe the fresh and pure air of the country. The political excitement would rise too high if it were not cooled off in this manner. The American people never will consent, and never ought to consent, that our sessions shall become perpetual. The framers of the constitution never intended that this should be the case. But once establish the principle that the Senate must consent to removals, as well as to appointments, and this consequence is inevitable. A foreign minister in a remote part of the world is pursuing a course dangerous to the best interests, and ruinous to the character, of the country. He is disgracing us abroad, and endangering the public peace. He has been intrusted with an important negotiation, and is betraying his trust. He has become corrupt, or is entirely incompetent. This information arrives at Washington, three or four days after the adjournment of Congress on the 8d of March. What is to be done? Is the President to be entirely powerless until the succeeding December, when the Senate may meet again? Shall he be obliged to wait until the mischief is entirely consummated—until the country is ruined—before he can recall the corrupt or wicked minister? Or will any gentleman contend that, upon every occasion, when a removal from office becomes necessary, he shall call the Senators from their homes throughout this widely extended Republic? And yet, this is the inevitable consequence of the position contended for by gentlemen. Could the framers of the constitution ever have intended such an absurdity? This argument was also adverted to by Mr. Madison.

But again, there are great numbers of disbursing officers scattered over this Union. Information is received, during the recess of the Senate, that one of them in Arkansas or at the Rocky Mountains has been guilty of peculation, and is wasting the public money. Must the President fold his arms, and suffer him to proceed in his fraudulent course, until the next meeting of the Senate? The truth is, that the President cannot execute the laws of the Union without this power of removal.

But cases still stronger may be presented. The heads of Departments are the confidential advisers of the President. It is chiefly through

their agency that he must conduct the great operations of Government. Without a direct control over them, it would be impossible for him to take care that the laws shall be faithfully executed. Suppose that one of them, during the recess of the Senate, violates his instructions, refuses to hold any intercourse with the President, and pursues a career which he believes to be in opposition to the constitution, the laws, and the best interests of the country. Shall the Executive arm be paralyzed; and, in such a case, must he patiently submit to all these evils until the Senate can be convened? In time of war the country might be ruined by a corrupt Secretary of War, before the Senate could be assembled.

It is not my intention on this occasion to discuss the question of the removal of the deposits from the Bank of the United States. I merely wish to present it as a forcible illustration of my argument. Suppose the late Secretary of the Treasury had determined to remove the deposits, and the President had believed this measure would be as ruinous to the country as the friends of the bank apprehended. If the Secretary, notwithstanding the remonstrances of the President, had proceeded to issue the order for their removal, what should we have heard from those who were loudest in their denunciations against the Executive, if he had said, My arms are tied, I have no power to arrest the act; the deposits must be removed, because I cannot remove my Secretary? Here the evil would have been done before the Senate could possibly have been assembled. I am indebted to the speech of the Senator from South Carolina, (Mr. CALHOUN,) at the last session, for this illustration. The truth is, view the subject in any light you may, the power of removal is in its nature inseparable from the executive power.

I have been presenting the inconveniences which would arise, during the recess of the Senate, from the want of this power in the Executive. But suppose the Senate to be always in session, would this remove every difficulty? By no means. Confer upon the Senate the power of rejecting removals, and you make the Executive, in the language of the debate of 1789, a double-headed monster. That power on whom is devolved the execution of your laws must be able to remove a corrupt or incompetent agent from office, or he cannot perform his duties. The Senate may, without inconvenience, and with very great advantage to the country, participate in appointments; but, when the man is once in office, the President must necessarily possess the power of turning him out in case he does not perform his duties. This power ought not to depend upon the will of the Senate, for that body have nothing to do with the execution of the laws.

If the power contended for were vested in the Senate, what would be the consequences? Still more dangerous, if possible, than any which I have yet depicted. The cases in which

removals are necessary must rapidly increase with the number of our officers and our rapidly extending population. If the President must assign reasons to the Senate for his removals, according to the provisions of this bill, or if the Senate must participate in these removals as well as in appointments, it necessarily follows that these reasons must be investigated. Witnesses must be examined, to ascertain the truth or falsehood of the charges made against the officer sought to be removed. The case must be tried judicially. Time must be consumed to the prejudice of our other duties. The legislative functions of the Senate must thus become impaired, and feelings excited between co-ordinate branches of the Government calculated to produce a most injurious effect upon the country. In this state of things, the case might readily occur which was anticipated by Mr. Madison in 1789. A majority of the Senate might even keep one of the heads of Department in office against the will of the President. Whether they would have done so or not last winter, in the case of the Secretary of the Treasury, I shall not pretend to determine.

If this power were conferred upon the Senate it would interfere with our judicial functions to a dangerous and alarming extent. The removal of a high officer of the Government is recommended by the President to the Senate, because of official misconduct. The charges are tried before the Senate. From the very nature of the question, it must become, in fact, a judicial investigation. The Senate determine, either that he shall remain in his office, or that he shall be removed. In either case, the House of Representatives, possessing the sole power of impeachment under the constitution, determine to exercise it against this officer. But the Senate have, by their previous proceedings, utterly disqualified themselves from giving to the accused an impartial trial. They have already decided upon his guilt or his innocence. Instead of proceeding to the trial unbiased by favor or by prejudice, their minds are inflamed, their judgments are biased, and they come to the investigation with the feelings of partisans rather than those of judges. The House of Representatives would have a just right to complain loudly against the exercise of this power by the Senate. We should thus disqualify ourselves from judging impartially in cases between the people of the United States and the high officers of the Government.

I think I have successfully established the position that no two things can in their nature be more distinct than the power of appointment and that of removal. If this be the case, then what becomes of the argument of the gentleman from Massachusetts? (Mr. WEBSTER.) It rested entirely upon the principle that these two powers were so identical in their nature, that because the Senate, under the constitution, have the express power of advising and consenting to appointments, therefore, by implication, they must possess the power of advising and con-

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senting to removals. The inference is without foundation.

The truth is, that the more we discuss this question, we shall have the greater reason to admire the wisdom of the constitution, and of those enlightened and patriotic men who placed that construction upon it in the beginning, which I shall venture to predict never will be disturbed by the American people. The Senate, from the nature of the body, are fully competent to assist the President in appointments. It would change their character altogether, and paralyze the executive arm of the Government, if they were to usurp the power of interfering in removals from office. Let the constitution, and the construction of it by its founders, in this particular, be perpetual!

It has been objected that the President, by this construction, is too far removed from responsibility in the exercise of this power. But he is responsible to the American people, whose servant he is in this, as in all other cases. Unless you paralyze the executive arm, and render it powerless to do good, lest it may do evil, you cannot support the doctrine which has been urged. You must vest some discretion, you must repose some confidence, in the Executive, or the wheels of Government must stand still. Should he abuse his power, he is liable to the censure of public opinion; and, in flagrant cases, he may be impeached.

It was contended in the first Congress, and the same argument has been urged upon the present occasion, that the power of removal was not recognized by the constitution; that it was a case omitted, and that therefore, by implication, it belongs to Congress. This argument was fully met and successfully refuted in 1789. If this principle were established, the executive power would have no necessary control over executive officers. Congress might confer the power of removal upon the Senate alone, upon the House of Representatives alone, or upon both conjointly, without any participation of the President. This Government—the admiration of the world—would present the solecism of an Executive without any control over executive agents, except what might be granted to him by the Legislature. We are not placed in this unfortunate predicament. The President, under the constitution, has the power of removal. It is a constitutional power, not to be controlled by the Legislature. It is a power equally sovereign in its nature with that of legislation itself. He is a co-ordinate branch of the Government, and has the same right to exercise his discretion in removals from office, that Congress possess in regard to the enactment of laws.

This brings me to consider the constitutionality of the third section of the bill now depending before us. It provides "that in all nominations made by the President to the Senate, to fill vacancies occasioned by removal from office, the fact of the removal shall be stated to the Senate at the time that the nomination is made,

with a statement of the reasons for such removal."

Whence do we derive our authority to demand his reasons? If the constitution has conferred upon him the power of removal, as I think I have clearly shown, is it not absolute in its nature, and entirely free from the control of Congress? Is he not as independent in the exercise of this power as Congress in the exercise of any power conferred upon them by the constitution? Would he not have the same authority to demand from us our reasons for rejecting a nomination as we possess to call upon him for his reasons for making a removal? Might he not say, I am answerable to the American people, and to them alone, for the exercise of this power, in the same manner that the Senate is for the exercise of any power conferred upon them by the constitution?

With all the deference which I feel for the opinions of the Senator from Tennessee, (Mr. WHITE,) I think he has arrived at the conclusion that the third section of this bill is constitutional, by blending things together which are in their nature entirely distinct. He asks, is it not in the power of Congress to create the office, to define its duties, and to change and vary these duties at pleasure? Granted. May they not, if they believe the office unnecessary, repeal the law, and must not the officer fall under it? Granted. These are legislative powers, clearly conferred upon Congress by the constitution. It is then asked, may Congress not prescribe it as the duty of these officers to give reasons for their conduct? Certainly they may. And why? Because they are the creatures of Congress, they are called into existence by Congress, and they will cease to exist at the pleasure of Congress. Is this the condition of the Executive, who is a co-ordinate branch of the Government, and who is answerable for his conduct, not to Congress, but to the people of the United States? What right have we to demand reasons from the servant of another as to how he performs his duties? To his own master, which, in this particular, is the American people, and to them alone, he is responsible. If Congress can command him to give reasons to the Senate for his removals, the Senate may judge of the validity of these reasons, and condemn them if they think proper. The Executive of the country is thus rendered subordinate to the Senate—a position in which the constitution of the country never intended to place him. In my opinion, this bill as strongly negatives the constitutional power of the President to remove from office, without the concurrence of the Senate, as if it were so declared in express language. For this reason I shall vote against it.

But if no such questions were involved in the bill, I should equally condemn its policy. Its evident tendency is substantially to make all offices offices for life, or during good behavior, which is contrary to the genius of our institutions. But the arguments against the policy of

this bill have been fully and ably insisted upon by others. At this late period of the session, when so much important business remains undone, I shall not occupy the time of the Senate in discussing this branch of the subject. I rose merely to present my views upon the constitutional question.

Mr. FRESTON declared that it had not been originally his intention to take part in this debate; the state of his health was such as not to admit of it; but he felt himself bound to rise and express a general opinion, and more especially to enter his most solemn protest against the strange and unwarrantable doctrines which he had heard brought forward in the course of this discussion.

Willing, however, as he professed himself to be, to acknowledge that Congress was the first spring and source of expenditure, he must beg to recall gentlemen to the consideration of the real question—which was not the question of origin, but of actual existence. The inquiry was directed to executive power, as now found to be, whatever may have been the errors, if they were errors, which first injudiciously suffered such a great and tremendous power to rise and grow to its present alarming height. Congress must make appropriations, and authorize expenditure for the necessities and for the welfare of the country; but does it follow, therefore, that, because Congress must, by necessity, originate expenditure, that therefore it is admissible that these expenditures should be turned aside, or employed to the creation of a power preponderating over Congress and over every thing in the country? Does it follow that it is a harmless and innocent thing, that all this expenditure should go to the profit of one individual, to aggrandize his power, to increase his influence, to augment his patronage, and to render him the unlimited master who dictates the destiny of those to whom these expenditures are disbursed by his hand? If Congress holds the purse and pours out its treasures, does it follow that one hand is to receive them and control their disbursement, and be established necessarily as the master over all who look up to that hand for the sweets it dispenses? Vain, therefore, and futile, idle, and untenable, is the specious argument, which has been so much and so strongly dwelt upon, that, because the source of the expenditure is in Congress, therefore there is no dangerous accumulation of patronage with the President. There is (continued Mr. P.) a formidable amount of executive patronage. It is a proposition which no one can or will dare to deny, that this patronage has increased, and is still increasing. This is the proposition on which the report is founded: it is a proposition which imperatively calls upon all the power, and feeling, and energy of the people to awake and rouse themselves, and know their real situation; and, above all, not to be led to lose sight of the real fact, of the undeniable proposition, by being sent a hunt-

ing after collateral questions, leading away from the main point, and bewildering the judgment with disquisitions upon the various actions of Congress, and the wisdom or folly of those actions.

The gentleman from New York (observed Mr. P.) has analyzed and divided the mass of dependants, and then asked of each part, separately, whether there existed any danger in it?

First he takes the pensioners, then the army, then the navy, and so on, and after reducing each to the utmost possible insignificance, he then triumphantly asks, "is there danger here?"

By this specious mode of representing things, the honorable gentleman is mistaken if he imagines that he will succeed in convincing the country that an army of dependants, of all classes, gives no undue influence to the power which is made to preside over the mighty mass.

However contemptible the mere individuals of each class may appear to him, the aggregate mass of patronage thrown, by their means, into the hands of the Executive, will not appear insignificant and contemptible to those who have at heart the welfare of the country, and the stability and permanency of our institutions.

The mass of dependants gives power: that is undeniable, and that is sufficient. It is therefore to evade, it is to blink the question, to attempt to show that no power whatever is conferred upon the individual who dispenses a patronage of such enormous extent.

WEDNESDAY, February 18.

Expunging Resolution.

Mr. BENTON offered the following resolution:

Resolved, That the resolution adopted by the Senate on the 28th day of March, in the year 1834, in the following words, "*Resolved*, That the President, in the late executive proceedings in relation to the public revenue, has assumed upon himself authority and power not conferred by the constitution and laws, but in derogation of both," be, and the same hereby is, ordered to be expunged from the journals of the Senate, because the said resolution is illegal and unjust, of evil example, indefinite and vague, expressing a criminal charge without specification; and was irregularly and unconstitutionally adopted by the Senate, in subversion of the rights of defence which belong to an accused and impeachable officer; and at a time, and under circumstances, to involve peculiar injury to the political rights and pecuniary interests of the people of the United States.

On motion of Mr. BENTON, the resolution was ordered to be printed.

Executive Patronage.

The Senate resumed the consideration of the bill to repeal the first and second sections of the act to limit the term of office of certain

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officers therein named, now at its third reading.

Mr. CLAY said: The Senator from New York, (Mr. WRIGHT,) in analyzing the list of 100,000 who are reported by the committee of patronage to draw money from the public treasury, contends that a large portion of them consists of the army, the navy, and revolutionary pensioners; and, paying a just compliment to their gallantry and patriotism, asks if they will allow themselves to be instrumental in the destruction of the liberties of their country? It is very remarkable, that hitherto the power of dismissal has not been applied to the army and navy, to which, from the nature of the service, it would seem to be more necessary than to those in civil places. But accumulation and concentration are the nature of all power, and especially of executive power. And it cannot be doubted that, if the power of dismissal, as now exercised in regard to civil officers, is sanctioned and sustained by the people, it will, in the end, be extended to the army and navy. When so extended, it will produce its usual effect of subserviency, or if the present army and navy should be too stern and upright to be moulded according to the pleasure of the Executive, we are to recollect that the individuals who compose them are not to live always, and may be succeeded by those who will be more pliant and yielding. But I would ask the Senator what has been the effect of this tremendous power of dismissal upon the classes of officers to which it has been applied? Upon the Post Office, the Land Office, and the Custom-house? They constitute so many *corps d'armées*, ready to further on all occasions the executive views and wishes. They take the lead in primary assemblies, whenever it is deemed expedient to applaud or sound the praises of the administration, or to carry out its purposes in relation to the succession. We are assured that a large majority of the recent convention at Columbus, in Ohio, to nominate the President's successor, were office holders. And do you imagine that they would nominate any other than the President's known favorite?

The power of removal, as now exercised, is nowhere in the constitution expressly recognized. The only mode of displacing a public officer for which it does provide is by impeachment. But it has been argued on this occasion, that it is a sovereign power, an inherent power, and an executive power; and, therefore, that it belongs to the President. Neither the premises nor the conclusion can be sustained. If they could be, the people of the United States have all along totally misconceived the nature of their Government, and the character of the office of their Supreme Magistrate. Sovereign power is supreme power; and in no instance whatever is there any supreme power vested in the President. Whatever sovereign power is, if there be any, conveyed by the Constitution of the United States,

is vested in Congress, or in the President and Senate. The power to declare war, to lay taxes, to coin money, is vested in Congress; and the treaty-making power in the President and Senate. The Postmaster-General has the power to dismiss his deputies. Is that a sovereign power, or has he any?

It has been argued that the power of removal from office is an executive power; and that all executive power is vested in the President; and that he is to see that the laws are faithfully executed, which, it is contended, he cannot do, unless, at his pleasure, he may dismiss any subordinate officer.

The mere act of dismissal or removal may be of an executive nature, but the judgment or sentence which precedes it is a function of a judicial and not executive nature. Impeachments, which, as has been already observed, are the only mode of removal from office expressly provided for in the constitution, are to be tried by the Senate, acting as a judicial tribunal. In England, and all the States, they are tried by judicial tribunals. In several of the States, removal from office sometimes is effected by the legislative authority, as in the case of judges, on the concurrence of two-thirds of the members. The administration of the laws of the several States proceeds regularly, without the exercise, on the part of the Governors, of any power similar to that which is claimed for the President. In Kentucky, and in other States, the Governor has no power to remove sheriffs, collectors of the revenue, clerks of courts, or any one officer employed in administration; and yet the Governor, like the President, is constitutionally enjoined to see that the laws are faithfully executed.

The President is enjoined by the constitution to take care that the laws be faithfully executed. Under this injunction the power of dismissal is claimed for him; and it is contended that if those charged with the execution of the laws attempt to execute them in a sense different from that entertained by the President, he may prevent it, or withhold his co-operation. It would follow that, if the Judiciary give to the law an interpretation variant from that of the President, he would not be bound to afford means which might become necessary to execute their decision. If these pretensions are well founded, it is manifest that the President, by means of the veto, in arresting the passage of laws which he disapproves, and the power of expounding those which are passed according to his own sense of them, will become possessed of all the practical authority of the whole Government. If the Judiciary decide a law contrary to the President's opinion of its meaning, he may command the marshal not to execute the decision, and urge his constitutional obligations to take care that the laws be faithfully executed. It will be recollected, perhaps, by the Senate, that, during the discussions on the deposit question, I predicted that the day would arrive

when a President, disposed to enlarge his powers, would appeal to his official oath as a source of power. In that oath he undertakes that he will, "to the best of his ability, preserve, protect, and defend, the constitution of the United States." The fulfilment of the prediction quickly followed; and during the same session, in the protest of the President, we find him referring to this oath as a source of power and duty. Now, if the President, in virtue of his oath, may interpose and prevent any thing from being done contrary to the constitution as he understands it; and may, in virtue of the injunction to take care that the laws be faithfully executed, prevent the enforcement of any law contrary to the sense in which he understands it, I would ask what powers remain to any other branch of the Government? Are they not all substantially absorbed in the will of one man?

The power of removal from office not being one of those powers which are expressly granted and enumerated in the constitution, and having, I hope, successfully shown that it is not essentially of an executive nature, the question arises, to what department of the Government does it belong, in regard to all offices created by law, or whose tenure is not defined in the constitution? There is much force in the argument which attaches the power of dismission to the President and Senate conjointly, as the appointing power. But I think we must look for it to a broader and higher source—the legislative department. The duty of appointment may be performed under a law which enacts the mode of dismission. This is the case in the Post Office Department—the Postmaster General being invested with both the power of appointment and of dismission. But they are not necessarily allied, and the law might separate them, and assign to one functionary the right to appoint, and to a different one the right to dismiss. Examples of such a separation may be found in the State Governments.

It is the legislative authority which creates the office, defines its duties, and may prescribe its duration. I speak, of course, of offices not created by the constitution, but the law. The office, coming into existence by the will of Congress, the same will may provide how, and in what manner, the office and the officer shall both cease to exist. It may direct the conditions on which he shall hold the office, and when and how he shall be dismissed. Suppose the constitution had omitted to prescribe the tenure of the judicial office, could not Congress do it? But the constitution has not fixed the tenure of any subordinate offices, and therefore Congress may supply the omission. It would be unreasonable to contend that, although Congress, in pursuit of the public good, brings the office and the officer into being, and assigns their purposes, yet the President has a control over the officer which Congress cannot reach or regulate—and this control in virtue of some vague and undefined implied executive power, which the friends of executive supremacy are

totally unable to attach to any specific clause in the constitution!

It has been contended with great ability that, under the clause of the constitution which declares that Congress shall have power "to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all others vested by this constitution in the Government of the United States, or in any department or officer thereof," Congress is the sole depository of implied powers, and that no other department or officer of the Government possesses any. If this argument be correct, there is an end of the controversy. But if the power of dismission be incident to the legislative authority, Congress has the clear right to regulate it. And if it belong to any other department of the Government, under the cited clause, Congress has the power to legislate upon the subject, and may regulate it, although it could not divest the department altogether of the right.

Hitherto I have considered the question upon the ground of the constitution, unaffected by precedent. We have in vain called upon our opponents to meet us upon that ground, and to point out the clause of the constitution which, by express grant or necessary implication, subjects the will of the whole official corps to the pleasure of the President, to be dismissed whenever he thinks proper, without any cause, and without any reasons publicly assigned or avowed for the dismission, and which excludes Congress from all authority to legislate against the tremendous consequences of such a vast power. No such clause has been shown; nor can it be, for the best of all reasons, because it does not exist. Instead of bringing forward any such satisfactory evidence, gentlemen inrench themselves behind the precedent which was established in 1789, when the first Congress recognized the power of dismission in the President; that is, they rely upon the opinion of the first Congress as to what the constitution meant, as conclusive of what it is.

The precedent of 1789 was established in the House of Representatives against the opinion of a large and able minority, and in the Senate by the casting vote of the Vice President, Mr. John Adams. It is impossible to read the debate which it occasioned, without being impressed with the conviction that the just confidence reposed in the Father of his Country, then at the head of the Government, had great, if not decisive, influence in establishing it. It has never, prior to the commencement of the present administration, been submitted to the process of review. It has not been reconsidered; because, under the mild administration of the predecessors of the President, it was not abused, but generally applied to cases to which the power was justly applicable.

[Mr. OLAY here proceeded to recite from a memorandum the number of officers removed under the different Presidents, from Washington down; but the reporter, not having access

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to the memorandum, is unable to note the precise number under each, and can only state, generally, that it was inconsiderable under all the administrations prior to the present; but under that of General Jackson the number of removals amounted to more than two thousand—of which some five or six hundred were post-masters.]

But, Mr. President, although the bill is, I think, right in principle, it does not seem to me to go far enough. It makes no provision for the insufficiency of the reasons of the President, by restoring or doing justice to the injured officer. It will be some, but not sufficient restraint against abuses. I have therefore prepared an amendment, which I beg leave to offer, but which I will not press against the decided wishes of those having the immediate care of the bill. By this amendment,* as to all offices created by law, with certain exceptions, the power at present exercised is made a suspensory power. The President may, in the vacation of the Senate, suspend the officer and appoint a temporary successor. At the next session of the Senate he is to communicate his reasons; and if they are deemed sufficient, the suspension is confirmed, and the Senate will pass upon the new officer. If insufficient, the displaced officer is to be restored. This amendment is substantially the same proposition as one which I submitted to the consideration of the Senate at its last session. Under this suspensory power, the President will be able to discharge all defaulters or delinquents; and it cannot be doubted that the Senate will concur in all such dismissions. On the other hand, it will insure the integrity and independence of the officer, since he will feel that if he honestly and faithfully discharges his official duties, he cannot be displaced arbitrarily, or from mere caprice, or because he has independently exercised the elective franchise.

It is contended that the President cannot see that the laws are faithfully executed, unless he possesses the power of removal. That injunction of the constitution imports a mere general superintendence, except where he is specially charged with the execution of a law. It is not necessary that he should have the power of dismission. It will be a sufficient security against the abuses of subordinate officers that the eye of the President is upon them, and that he can communicate their delinquency. The State Executives do not possess this power of dismission. In several, if not all the States, the Governor cannot even dismiss the Secretary of State; yet we have heard no complaints of

the inefficiency of State Executives, or of the administrations of the laws of the States. The President has no power to dismiss the judiciary; and it might be asked, with equal plausibility, how he could see that the laws are executed, if the judges will not conform to his opinion, and he cannot dismiss them.

But it is not necessary to argue the general question, in considering either the original bill or the amendment. The former does not touch the power of dismission, and the latter only makes it conditional instead of being absolute.

It may be said that there are certain great officers, heads of Departments and foreign ministers, between whom and the President entire confidence should exist. That is admitted. But, surely, if the President remove any of them, the people ought to know the cause. The amendment, however, does not reach those classes of officers. And supposing, as I do, that the legislative authority is competent to regulate the exercise of the power of dismission, there can be no just cause to apprehend that it will fail to make such modifications and exceptions as may be called for by the public interest; especially as whatever bill may be passed must obtain the approbation of the Chief Magistrate. And if it should attempt to impose improper restrictions upon the executive authority, that would furnish a legitimate occasion for the exercise of the veto. In conclusion, I shall most heartily vote for the bill, with or without the amendment which I have proposed.

FRIDAY, February 20.

Branches of the Mint.

Mr. WAGGAMAN moved to take up the bill for the establishment of branches of the mint in New Orleans, Auraria, and in North Carolina and Georgia; which was ordered.

Mr. WAGGAMAN spoke in support of the bill, and urged its necessity from a consideration of the great importations of gold and silver into New Orleans, and the great expense and risk incurred by sending on all the bullion from the South to be coined at Philadelphia.

Mr. TALLMADGE proposed an amendment, having for its object the establishment of a branch of the mint at New York also.

Mr. WAGGAMAN felt a regret that he must object to the amendment as an appendage to the present bill: New York was within six hours' easy travel to Philadelphia, and bullion could be coined free of expense to them, whereas it cost to the owners in New Orleans two and a half per cent.

Mr. CALHOUN hoped the amendment would not be pressed at present: when the proper time should come, he would be glad to vote for having branches at New York, Boston, Norfolk, Charleston, and other necessary and central places. One reason for pressing now for their immediate establishment, as by the bill, was, that the whole amount of the expenses which their establishment would cause, was more than

* The amendment was in the following words:

Be it further enacted, That in all instances of appointment to office by the President, by and with the advice and consent of the Senate, the power of removal shall be exercised only in concurrence with the Senate; and, when the Senate is not in session, the President may suspend any such officer, communicating his reasons for the suspension during the first month of its succeeding session; and if the Senate concur with him, the officer shall be removed; but if it do not concur with him, the officer shall be restored to office.

counterbalanced by the expenses which the disavowal of Philadelphia occasioned.

Mr. BENTON spoke in the same sense; he wished to see a hard metallic currency in the hands of the people; he wanted it to be made to run in that channel, viz.: the great body of the people; he wanted the country to be saved from the rag system; he wanted a sound and solid currency to be established instead of paper, whether from local or any other banks; he was anxious to see the currency brought back to that solid condition in which it was when the States surrendered up the right of coining to the federal Government; next session he would not oppose a motion for the benefit of other places, but at present the lateness of the session, and the immediate necessity of the places mentioned in the bill, made it desirable not to embarrass its progress by the introduction of other places, not under circumstances of equal pressure; he therefore should vote against the amendment.

Mr. TALLMADGE withdrew his amendment.

An amendment proposed by Mr. KING, of Alabama, was adopted; to the effect that the salaries of the officers should not commence till the necessary buildings were built.

Mr. CLAY proposed to lay the bill upon the table, and that it should be printed with the amendments.

Mr. WAGGAMAN then assented to the motion, on an understanding that to-morrow he would again call up the bill.

Executive Patronage—Removals.

The Senate proceeded to consider the bill to repeal the first and second sections of the act to limit the term of office of certain officers therein named.

The question being on the passage of the bill, Mr. BENTON moved to recommit the bill, with instructions to confine the operation of the third section to the class of officers named in the first section; and in other sections to make such changes as would conform the bill to the bill of 1826. He wished to avoid touching in any way the power of the President to make removals.

Mr. CALHOUN remarked that the difference between the two bills was merely verbal. The bill implies the power of removal in the President. Mr. C. read from the report of Mr. BENTON, to show that the committee then thought that the President had no power to remove from office those appointed by and with the advice and consent of the Senate, without the concurrence of the Senate.

Mr. WEBSTER wished the bill to be made precisely to conform to the third section of the bill of 1826. He wished, instead of recommitting, that the bill should be amended by general consent.

Mr. LEIGH made a few remarks on the source whence the President derived the power of removal. He was willing that the bill should be amended to conform to the wishes of the Sen-

ator from Missouri. Believing that this bill went beyond that of 1826, by including all military officers, he was desirous to have it amended in that respect without recommitment.

Mr. CUTHBERT said that the question now came up in a new aspect. He would desire to have the bill recommitted.

Mr. WEBSTER said he wished the bill to be recommitted, and he would vote for that motion without the instructions. The bill might be recommitment, and if the Senate would give permission, the committee could sit, and report the amendments in fifteen minutes.

The motion to recommit, was decided in the affirmative.

Mr. CLAYTON then expressed a hope that the instructions would not be pressed, or, if pressed, would not be adopted.

Mr. BENTON withdrew his instructions.

Mr. CALHOUN reported the bill with amendments conformable to the understanding of the Senate.

The amendments were then concurred in.

Mr. HILL moved to amend the bill by adding the first clause of the proposition he had offered, which provides that all deliberations on nominations shall be with open doors, and asked for the yeas and nays, which were ordered.

Mr. BUCHANAN wished the amendment to be withdrawn. It was too late an hour to make so important an amendment. He must vote against it.

The question was then taken: Yeas 3, nays 40.

The bill was ordered to be engrossed for a third reading.

SATURDAY, February 21.

Relations with France.

Mr. SILSBEE said he had been requested to present to the Senate three memorials on the subject of our present relations with France. One of these memorials, he said, was signed by between five and six hundred of the citizens of Salem; the other two memorials were from the towns of Marblehead and Beverly, in the State of Massachusetts, and bore the signatures of a large number of the citizens of those towns. Mr. S. said that a number of these memorialists had been long personally known to him, and that he knew no individuals, here or elsewhere, more competent to form correct opinions upon the subjects to which these memorials relate, or more disposed to present an undisguised and fair exposition of their opinions, than many whose names were affixed to these memorials; and believing, said Mr. S., that the memorials express the views of the memorialists better than I can do it for them, I move that they be read.

After the reading of the memorials, Mr. SILSBEE said that, as the important subject to which these memorials relate was not now under the consideration of any committee of the Senate, and as important intelligence relat-

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ing to it (the harbinger of which had already reached us) might be hourly expected, he would, at the suggestion of several friends in the Senate, move that they be printed, and, for the present, laid on the table.

Executive Patronage.

The bill to repeal the first and second sections of the act to limit the term of office of certain officers therein named was read a third time, and passed by the following vote:

YEAS.—Messrs. Bell, Benton, Bibb, Black, Calhoun, Clay, Clayton, Ewing, Frelinghuysen, Goldsborough, Kent, King of Georgia, Leigh, McKean, Mangum, Moore, Naudain, Poindexter, Porter, Prentiss, Preston, Robbins, Silsbee, Smith, Southard, Swift, Tomlinson, Tyler, Waggaman, Webster, White—31.

NAYS.—Messrs. Brown, Buchanan, Cuthbert, Hendricks, Hill, Kane, King of Alabama, Knight, Linn, Morris, Robinson, Ruggles, Shepley, Tallmadge, Tipton, Wright—16.

Branches of the Mint.

On motion of Mr. WAGGAMAN, the Senate resumed, as in Committee of the Whole, the bill to establish branches of the mint of the United States.

A protracted and discursive debate then ensued, in which Messrs. FRELINGHUYSEN, MANGUM, CALHOUN, BENTON, PORTER, WEBSTER, GOLDSBOROUGH, CLAY, and EWING, participated, when the principles of the gold bill of last session were fully gone into.

The question to postpone was determined in the negative by—

YEAS.—Messrs. Bell, Buchanan, Clay, Ewing, Frelinghuysen, Goldsborough, Hill, Knight, McKean, Naudain, Prentiss, Robbins, Smith, Southard, Swift, Tipton—16.

NAYS.—Messrs. Benton, Bibb, Black, Brown, Calhoun, Cuthbert, Hendricks, Kane, King of Alabama, King of Georgia, Leigh, Linn, Mangum, Moore, Morris, Poindexter, Porter, Preston, Robinson, Shepley, Silsbee, Tallmadge, Tyler, Waggaman, Webster, White, Wright—27.

Mr. CLAY, with a view to test the opinion of the Senate, moved its recommitment to the Committee on Finance, with instructions to amend the bill so as to authorize the establishment of one branch only; upon which motion he asked the yeas and nays, which were ordered, and were:

YEAS.—Messrs. Bell, Black, Buchanan, Clay, Ewing, Frelinghuysen, Goldsborough, Hill, Knight, McKean, Naudain, Prentiss, Robbins, Smith, Southard, Swift, Tipton, Tomlinson—18.

NAYS.—Messrs. Benton, Bibb, Brown, Calhoun, Cuthbert, Hendricks, Kane, King of Alabama, King of Georgia, Leigh, Linn, Mangum, Moore, Poindexter, Porter, Preston, Robinson, Ruggles, Shepley, Tallmadge, Tyler, Waggaman, White, Wright—24.

Mr. CLAY then moved to postpone the bill till Monday next, and, on that motion, he asked the yeas and nays, which were ordered, and were—yeas 20, nays 22.

The bill was reported to the Senate with the amendments, which being concurred in, the bill was ordered to be engrossed for a third reading.

TUESDAY, February 24.

Public Printer.

Mr. PRESTON stated that he had given notice that he should to-day call up his resolution concerning the election of a printer for the Senate. But, as he perceived that the seats were thin, he would not call up that subject to-day, nor was he prepared to say on what day he should move his resolution, although it would be necessary to do so at an early period.

Branches of the Mint.

The bill to establish branches of the mint of the United States was read a third time.

[This bill proposes to provide by law that branches of the mint of the United States shall be established as follows: one branch at the city of New Orleans, for the coinage of gold and silver; one branch at the town of Charlotte, in Mecklenberg county, in the State of North Carolina, for the coinage of gold only; and one branch at or near Dahlonega, in Lumpkin county, in the State of Georgia, also for the coinage of gold only; and to appropriate sufficient sums of money for the purpose of purchasing sites, erecting suitable buildings, and completing the necessary combinations of machinery for the several branches aforesaid.

The second section proposes to provide that, so soon as the necessary buildings are erected for the purpose of well conducting the business of each of the said branches, the following officers shall be appointed upon the nomination of the President, and with the advice and consent of the Senate: one superintendent, one treasurer, one assayer, one chief coiner, one melter, and one refiner; and that the superintendent of each mint shall engage and employ as many clerks and as many subordinate workmen and servants as shall be provided for by law, &c.

The third section proposes to provide that the officers and clerks to be appointed under this act, before entering upon the duties thereof, shall take oath and give bonds for the faithful and diligent performance of the duties of their offices.

Section fourth proposes to provide that the general direction of the business of the said branches of the mint of the United States shall be under the control and regulation of the director of the mint at Philadelphia, subject to the approbation of the Secretary of the Treasury, &c.

Section fifth proposes to provide that all the laws and parts of laws made for the regulation of the mint of the United States, &c., shall be in full force in relation to each of the branches of the mint proposed to be established by this

bill, so far as the same shall be applicable thereto.]

Mr. BENTON viewed this question as one of currency; and, of all questions which any Government could discuss, that was one of the most important to the people; for every man must feel himself deeply interested in the currency of his country. There were now no less than six hundred banks in the Union employed in coining paper money. It was time that an end was put to this state of things; that that miserable trash should be utterly proscribed. He wished to see the country return to that species of currency which existed forty-five years ago, when the revenues of the federal Government were paid in gold and silver. He looked upon the passage of the gold bill at the last session as highly important, and as the first step towards the commencement of a sound and valuable circulating medium—gold and silver. He considered this as a question of paper on one side, and gold on the other. He should vote for the bill, but against the recommitment of it.

Mr. BLACK did not think it practicable to establish a currency of that kind which the honorable Senator from Missouri had mentioned. The present question had nothing to do with that matter. The only question now was, whether gold was of more value here than elsewhere. If it was of more value elsewhere, it would go out of the country; he cared not what shape it might be put into, whether eagles or any thing else.

Mr. KNIGHT said that he understood the difference in the exchange in gold between New Orleans and the northern cities was one and a quarter per cent., which was sufficient to pay the expense of its transportation to Philadelphia.

Mr. WAGGAMAN remarked that the exchange might be higher between Boston, New York, and other northern ports, and New Orleans, than it was between the latter city and Baltimore and other southern ports. The transportation of bullion between the cities of New Orleans and Philadelphia had always cost two and a half per cent. It could not be sent to Philadelphia and returned in less time than from sixty to ninety days. Then, it was to be remembered, that the interest upon that time was to be included in the expense; and interest at New Orleans was 8 per cent.

Mr. BENTON stated that the South and Southwest were put to great inconvenience in consequence of having to send their gold to Philadelphia to be coined. Owing to the great expense of transportation, and the loss of so much time, the money was frequently not returned; and the result to those parts of the country was, that they were thereby deprived of a metallic currency.

Mr. KNIGHT said much stress had been laid on the cost of transporting gold to Philadelphia and back. Why send it back, if it was worth more in Philadelphia than New Orleans? He

was satisfied that gold was worth more at the former than at the latter place.

Mr. PORTER observed that he had not heard an argument that day which went to show that it was not important to have a mint established at New Orleans. In his judgment one was absolutely necessary.

Mr. CLAY said that the Senate had been told that gold and silver was one and a quarter per cent. higher in Philadelphia than at New Orleans, and that that percentage just defrayed the expense of transportation.

Why did a man, possessing a given amount of Spanish milled dollars or doubloons, send them to Philadelphia? He (Mr. C.) was at a loss to know. It was to be remembered that those foreign coins would pass equally as well, and be received by everybody, as the current coin of the country. The owner of the coin, then, did not ship it in order that it might be rendered current, because it was already so. Was not that the fact? Yes, it was. Those doubloons or Spanish milled dollars were shipped to Philadelphia, not because they would not pass at New Orleans, but because the course of trade demanded, or the interest of commerce required, that they should be sent to Philadelphia. Let him suppose the establishment of a mint at New Orleans, and that those Spanish milled dollars and doubloons were transformed into American silver and gold coin, what would the owner do with them then? Could he do more than pass them as he did at present? Could he do more than pass them to pay debts under the authority of law? What would he do, then, but send them to Philadelphia, if the exchange and the course of trade were in his favor? Was that a delusive argument? Gold and silver were now transported to Philadelphia because they were worth more there than at New Orleans. He thought, under all the circumstances of the case, that a branch mint at New Orleans was uncalled for and unnecessary. The arguments which had been adduced in favor of it were, in his opinion, entirely fallacious.

Mr. CALHOUN observed that, if the argument of the Senator from Kentucky proved any thing, it proved too much. The gentleman professed to be fond of retrenchment; let him, then, move that the mint situated in Philadelphia be abolished. There were many gentlemen who would be ready to second that motion. The United States had taken a monopoly into its own hands, and evinced a disposition to cling to it. And it was now proposed to subject those States who had now applied to Congress to grant them branch mints, to a continuance of that inconvenience and loss which they had so long endured. The thing was just as arbitrary as if the United States were to undertake the packing of all the cotton which was grown in the country, at a loss to the proprietor of 3 per cent. This was a question of great magnitude, of vital interest to the South, and therefore deserved the most serious con-

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sideration. He had, however, he was sorry to say, seen more persevering opposition made to it than to any other measure for the last two years. It was and ought to be treated as a sectional question, but, nevertheless, as one calculated to extend equal benefits to all the States.

Mr. CLAY said, if there had been resistance on the one side, there had also been a most unparalleled, and, he must say, unbounded perseverance on the other. This was a sectional question! Of what sectional character was it? The honorable Senator had talked about distributing equally something that would be beneficial to all the States. When the land bill was under consideration, where then were the doctrines of the gentleman in relation to distributing the proceeds equally among all the States of this confederacy? Sectional! What was there sectional in the establishment of a mint at Charlotte, or in the remote bosom of Georgia? If a proposition had been made to establish mints at some more important points of attraction, he would have voted for them with infinitely more readiness. Sectional! A little paltry expenditure of some \$15,000 or \$20,000. But the honorable Senator argued that if his (Mr. C.'s) argument proved any thing, it proved that there was no mint necessary at all. Mr. C. dissented entirely from the inferences drawn by the Senator from South Carolina on that point, and would insist that the resistance which he made to the establishment of those branch mints was based on the ground that it would be an unnecessary expenditure of the public money, quite uncalled for and unnecessary. He would repeat that, in whatever light he had viewed the measure, he had been unable to come to any other conclusion than this: that it was, in his humble judgment, delusive, uncalled for, calculated to deceive the people, to hold out ideas which will never be realized, and as utterly unworthy the consideration of the Senate.

Mr. CALHOUN expressed his astonishment at the warmth which the honorable Senator had shown in debating this question—a question which he (Mr. C.) would repeat, was as much sectional as any thing could be in one point of view; but, in another, it was national. Let gentlemen say what they would, this Government was bound, in his opinion, to establish the mints which had now been asked for.

The motion to recommit the bill was negatived.

YEAS.—Messrs. Bell, Black, Buchanan, Clay, Clayton, Ewing, Frelinghuysen, Goldsborough, Hill, Knight, McKean, Morris, Naudain, Robbins, Silsbee, Smith, Southard, Swift, Tipton, Tomlinson, Webster—21.

NAYS.—Messrs. Benton, Bibb, Brown, Calhoun, Cuthbert, Hendricks, Kane, King of Alabama, King of Georgia, Leigh, Linn, Mangum, Porter, Preston, Robinson, Ruggles, Shepley, Tallmadge, Tyler, Waggaman, White, Wright—22.

The question on the passage of the bill, was decided as follows:

YEAS.—Messrs. Benton, Bibb, Brown, Calhoun, Cuthbert, Hendricks, Kane, King of Alabama, King of Georgia, Leigh, Linn, Mangum, Morris, Porter, Preston, Robinson, Ruggles, Shepley, Tallmadge, Tyler, Waggaman, Webster, White, Wright—24.

NAYS.—Messrs. Bell, Black, Buchanan, Clay, Clayton, Ewing, Frelinghuysen, Goldsborough, Hill, Knight, McKean, Naudain, Robbins, Silsbee, Smith, Southard, Swift, Tipton, Tomlinson—19.

So the bill was passed and sent to the House.

WEDNESDAY, February 25.

District of Columbia.

The Senate resumed the unfinished business of last evening, being the bill for the benefit of the corporations of Washington, Georgetown, and Alexandria.

[The bill as reported granted \$70,000 a year, for five years, to the corporation of Washington; and \$17,500 each to the corporations of Alexandria and Georgetown, for the same period.]

The question was taken on the engrossment of the bill, and decided as follows:

YEAS.—Messrs. Benton, Bibb, Buchanan, Clay, Cuthbert, Ewing, Frelinghuysen, Goldsborough, Kane, Kent, King of Alabama, King of Georgia, Knight, Leigh, Linn, McKean, Naudain, Porter, Preston, Robbins, Silsbee, Southard, Swift, Tomlinson, Tyler, Waggaman, Webster—27.

NAYS.—Messrs. Black, Brown, Calhoun, Grundy, Hendricks, Hill, Mangum, Morris, Prentiss, Robinson, Ruggles, Shepley, Tipton, Wright—14.

THURSDAY, February 26.

Mr. SHEPLEY presented the credentials of the honorable JOHN RUGGLES, elected a Senator from the State of Maine, for six years, commencing from the 4th day of March next.

French Relations.

A Message was received from the President of the United States, enclosing copies of the correspondence which has taken place between Mr. Livingston and Mr. Forsyth, and Mr. Forsyth and Mr. Serurier, since the last communication. The Message and documents were ordered to be printed, and referred to the Committee on Foreign Relations.

Public Deposits.

The Senate resumed the consideration of the bill to regulate the public deposits.

[Here follows the bill, the provisions of which appear sufficiently in the debate.]

Mr. WEBSTER said that, in discussing the provisions and merits of this bill, it was necessary so often to allude to the Bank of the United States, and the withdrawal of the Government

deposits from that institution, that he would take occasion to say a few words, and they should be very few, upon that subject. In the first place, he wished to say that he considered the question of renewing the bank charter as entirely settled. It could not be renewed. Public opinion, he thought very unfortunately for the country, had decided against it; and while there was a strong and prevailing sentiment in the minds of the community against a measure, it was quite useless to move such measure. For himself, he should take no part in any attempt to renew the charter of the bank. The people had decided against its continuance, and it must expire.

The bank must wind up its affairs; its debts must be collected, and its circulation after a while, entirely withdrawn; and, when this takes place, or begins to take place, then, and not till then, the existing Government "experiment" will begin to be put to the proof. At present, all is fair weather; the question is, how will it be, when it becomes necessary to fill up the void occasioned by withdrawing the bills of the Bank of the United States, by notes of the deposit banks? When these banks shall be brought to rely on their own means, their own credit, and their own facilities; when the substantial succor of a universally accredited paper currency, of twenty millions in amount, shall be withdrawn, then the experiment will be put on trial.

It is known, sir, that I am one of those who believe in the impracticability of an exclusive, or of a general metallic currency. Such a currency is not suited to the age, nor to commercial convenience. The return of the golden age is a dream. There will continue to be banks; and the mass of circulation will be a paper circulation of some kind; and the question will be, whether State institutions, associated together as deposit banks, can furnish a sound and universally accredited circulation.

At present they are not proved capable of any such thing. If a gentleman here wishes to remit money to New England, or to the Ohio River, he certainly does not send bills of the deposit bank of this District. If a single individual has done that, by way of trying the "experiment," he probably does not repeat the trial; and, at any rate, the example is not generally followed. Deposit banks pay specie; which is, so far, very well. And a person with a check on one of those banks can obtain specie; and, with that specie, he can obtain bills of the Bank of the United States. And this is the process he will go through, if he wish to remit money in the shape of bank notes to any considerable distance. In fact, that is well known to be the only practice. How this is to be effected, when there shall be no longer notes of the Bank of the United States to be had, remains to be seen.

I have said, sir, the day of trial has not come, and that all as yet seems clear weather. But I have recently learned some symptoms of

approaching squalls; some little specks of clouds, at least, make their appearance above the horizon. I learn, from authority not to be questioned, that, within the last week or ten days, a Treasury warrant was drawn on a deposit bank in one of the cities, payable in another city. The bank on which the warrant was drawn offered to pay in a check on a bank in the city where the warrant was payable; and, when the check was presented, it was found to be made payable in current bank notes. Here, I think, sir, there is, as I have said, a small cloud darkening the early dawn of the new golden day of our currency. Even so soon as the present hour, Treasury drafts are thus offered to be paid in current bank notes. I have very good reason to believe, sir, that other deposit banks draw their checks in like manner, payable in current bank notes. And I have called the attention of the Senate to these occurrences, not merely to expose the practice, but to correct it also. I wish to stop it at the threshold, by declaring it illegal; and I have prepared a section, which I trust the Senate will see the importance of inserting in this bill.

Mr. EWING said he had always believed that the local banks would be found unable to carry on the operations of the Government, but he had not expected that they would so soon reach the point of failure.

Mr. BENTON expressed his high indignation at the attempt to which the Senator from Massachusetts had alluded, and was ready to go as far as that Senator, if not farther, to prevent any recurrence. He was disposed to go so far as to hold up to the public the names of any of the banks which had thus acted.

Mr. B. said that the fact stated by the gentleman from Massachusetts, he apprehended to be as he had represented it; and he took the occasion to express his highest indignation at it; and he was willing to go as far, or farther than any other gentleman to prevent it. When Mr. Gallatin, in 1811, made arrangements for payment of all Treasury warrants, he expressly required them to be paid in gold and silver. This arrangement was what he expected at this time; and he would not only concur in the amendment, but he would go further, and concur in an inquiry why there had been any relaxation from what he thought last year would have been the system adopted.

Mr. LEXEN said that no one who knew the views and opinions of the honorable gentleman from Missouri on this subject, would feel surprised at the expression of his indignation and regret at such a departure from the principles he has advocated. All believe that the gentleman wishes to restore a hard-money currency; but he (Mr. L.) had not been so sanguine as to the practicability of restoring it so suddenly as the honorable gentleman thought it could be done. He begged leave to ask the gentleman whether he thought it practicable to restore a hard-money currency by the action of this

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Government, if the States persisted in their present banking system, and when there was such an increase in banking capital in so many of the States. In order to restore such a currency, he thought it indispensable that the State banking system should be diminished. In Virginia, where there is as much hostility to the Bank of the United States, and where the banking system generally is as unpopular as it is in any State of the Union, an effort has recently been made to supply the void to be occasioned by the withdrawal of the United States Bank bills, though he was glad to say it had not been adopted. He believed there was no power on earth which could prevent this paper system, if the State banking system continued to prevail. He voted last year for the bill reducing the standard of gold, but not in reference to its preventing excessive issues of paper; for, if you have a twenty dollar bill, you would have a right to claim gold for it to the amount of the nominal value of the gold, whether the standard had been one in sixteen, or one in thirty-two. The truth was, that paper, being the cheaper currency, would always expel the dearer currency, do what you will.

Mr. BENTON said that, with regard to the inquiry which had been made of him by the honorable gentleman from Virginia, it addressed itself to a subject upon which he could not be supposed to have been indifferent. For some years he had turned his attention to the subject of currency, and he had looked at the difficulty suggested, as the gentleman did. He looked to the co-operation of the State Governments as highly necessary to the attainment of the great object, but not as the only means. He looked to the action of the State Governments as the most ready means of checking this most inordinate paper system. But if a man would cast his eye over the United States, and look at the great advances which had been made in public sentiment in this particular, he would see that there was hardly a State in which movements had not been made against the paper system: and, Mr. B. said, in his State there was not now a single bank; the Legislature of the State had lately refused to charter one; and the Governor said, if one were chartered, he would use his veto power upon it. So wholesome a state of things in the public mind would tend to get rid of the paper system. But this was not the only mode of getting a metallic currency for common purposes. There was one measure to restore a specie currency, for the origin of which he would have to go back to the Congress of 1789, when the revenues of the Government were required to be collected in gold and silver; he placed great reliance on the action of the States, and upon returning to the system of '89. But there was another remedy in the hands of Congress, which could and would be effectual. As to the cheap currency, it was cheap to those who issued it, but dear to those who used it.

Mr. LIZON said he used the expression in that

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sense. He took it to be an axiom in political economy, that the two currencies could not exist together, because the one was cheap and the other dear, and therefore the one would necessarily expel the other. The gentleman from Missouri depends upon the action and wisdom of the States to correct the evil; but he does not depend upon the action of any one State to effect it. If there were no banks in Missouri now, Mr. L. ventured to say that if her neighbors, Illinois, Indiana, and Kentucky, did not restrain and regulate their paper system, she would be driven to establish her own banks in self defence. He wished to impress it on those who heard him, and, if possible, on the whole nation, that there must be a combined effort of all the State Governments to produce a restoration to a hard-money system.

Mr. TALLMADGE remarked, with respect to the amendment, that if the holder of a warrant requires his money in gold or silver, he has a right to it, and therefore there is no necessity for making a formal enactment of what is now the law.

The amendment was agreed to.

Mr. WEBSTER moved to amend the bill by adding a section, requiring that each of the deposit banks shall retain within its vaults gold and silver, which, with the balances due to them from specie-paying banks, shall amount, in the whole, to one-fifth of the whole amount of its notes and responsibilities.

Mr. BENTON wished one-fourth to be substituted for one-fifth, to which Mr. WEBSTER assented.

Mr. EWING, Mr. SHEPLEY, Mr. BUCHANAN, and Mr. KNIGHT, made some remarks on the bill; and, on motion of Mr. WEBSTER, the yeas and nays were ordered on the motion to insert (in the blank) one-fourth. The question was decided as follows:

YEAS.—Messrs. Benton, Bibb, Brown, Calhoun, Clayton, Ewing, Goldsborough, Hendricks, McKean, Poindexter, Porter, Robbins, Smith, Southard, Tipton, Tomlinson, White—17.

NAYS.—Messrs. Black, Buchanan, Cuthbert, Frelinghuysen, Hill, Kane, Kent, King of Alabama, Knight, Leigh, Linn, Prentiss, Preston, Robinson, Ruggles, Shepley, Tallmadge, Waggaman, Webster—19.

The blank was then filled with one-fifth.

Mr. TALLMADGE moved an amendment, so as to have it read that the banks should have this amount of specie on hand when the monthly returns were made.

The amendment was negatived.

The amendment, as amended, was then agreed to.

Mr. TALLMADGE moved to amend, by introducing a provision into the bill to enable the Secretary of the Treasury to select an additional bank of deposit in any place where such additional bank or banks shall be necessary. Negatived.

The bill was reported to the Senate as amended, and the amendments (with the exception

of the one regarding the amount of specie on hand) were concurred in.

On the amendment requiring that one-fifth of the funds of the bank should be retained by the bank, Mr. SHEPLEY asked the yeas and nays; which were ordered, and were:

YEAS.—Messrs. Benton, Bibb, Black, Buchanan, Calhoun, Clayton, Cuthbert, Ewing, Goldsborough, Hendricks, King of Alabama, Knight, Leigh, Linn, McKean, Mangum, Poindexter, Porter, Prentiss, Preston, Robbins, Robinson, Southard, Tomlinson, Waggaman, Webster, White—27.

NAYS.—Messrs. Hill, Ruggles, Shepley, Tallmadge, Tipton, Wright—6.

Mr. BUCHANAN said he intended to vote against the engrossment of this bill; and, that there might be no misconstruction of his reasons for this determination, he would state distinctly the sole cause why he could not give it his support.

The bill, in his opinion, had been greatly improved by the amendments which had been adopted. He was opposed to investing the Treasury Department with any discretion in regard to the deposit banks which was not absolutely necessary. Their duties should be, as far as possible, distinctly defined by law. This we owed not only to the Department itself, but to the country. The amendments had, in several important particulars, accomplished this purpose; they had, in a great degree, supplied the defects in the original bill.

Why, then, it might be asked, should he vote against it? His answer was, simply, because it required these banks to pay two per cent. interest on the deposits. Now it might be, and probably was true, that the banks in the Middle and Eastern States would be able to bear this burden. But what was the case in the South-western States? In that portion of the Union, the Government received large sums of money which must be deposited in their local banks. There was a constant drain upon these banks to supply the funds necessary to be expended by the Government in the middle and eastern cities. This caused the rate of exchange to be always against New Orleans, and that portion of the Union. Under this bill it was made the duty of the deposit banks to transfer the funds of the Government to any point where it became necessary to expend them. This duty they ought to perform. Mr. B. felt confident, however, both from the nature of the business and the information he had received from gentlemen of the South and the West, that their banks would not be able to bear the charge of transferring these funds, and also pay interest upon the deposits at the rate of two per cent. The inevitable consequence would be, that the Government could not, in that portion of the Union, get sound and solvent banks to accept the deposits upon the terms prescribed by this bill. The Treasury Department would thus be embarrassed in its operations, and heavy eventual losses might be sustained by the United States. Surely, said

Mr. B., if two per cent. interest on the deposits be enough to demand from the banks at New York or Boston, it is too much to exact from those at New Orleans. There is no equality, there is no justice, in subjecting them to the same charge. Whilst the one class of banks must be constantly transmitting funds, the other are constantly receiving them. For this reason, and this alone, he should be compelled to vote against the bill.

The bill was ordered to be engrossed by the following vote:

YEAS.—Messrs. Benton, Black, Calhoun, Cuthbert, Ewing, Goldsborough, King of Georgia, Knight, Leigh, Linn, Mangum, Poindexter, Porter, Prentiss, Preston, Robinson, Southard, Tomlinson, Webster, White—20.

NAYS.—Messrs. Bibb, Brown, Buchanan, Hendricks, Hill, Kane, King of Alabama, Morris, Ruggles, Shepley, Tallmadge, Tipton—12.

FRIDAY, February 27.

Ohio Resolutions.

Mr. EWING rose and said that, at the last session, his colleague (Mr. MORRIS) presented to the Senate certain resolutions, adopted by the Legislature of the State of Ohio, against the recharter of the United States Bank, sustaining the course of the administration, and opposing the passage of the bill to appropriate, for a limited time, the proceeds of the public lands. These resolutions were read, laid on the table, and ordered to be printed. He had now the duty to perform of presenting certain resolutions, recently adopted in the Legislature of Ohio, rescinding the resolutions presented at the last session. He moved that these resolutions also be read, laid on the table, and ordered to be printed.

The motion was agreed to.

Expurgation of the Journal

The resolution, offered some time since by Mr. BENTON, to expunge from the journal of the Senate the resolutions of the last session on the subject of the encroachment of the Executive, was taken up for consideration.

The resolution was read by the Secretary, in the following words:

"Resolved, That the resolution adopted by the Senate on the 28th day of March, in the year 1834, in the following words, 'Resolved, That the President, in the late executive proceedings in relation to the public revenue, has assumed upon himself authority and power not conferred by the constitution and laws, but in derogation of both,' be, and the same hereby is, ordered to be expunged from the journals of the Senate; because the said resolution is illegal and unjust, of evil example, indefinite and vague, expressing a criminal charge without specification; and was irregularly and unconstitutionally adopted by the Senate, in subversion of the rights of defence which belong to an accused and impeachable officer; and at a time and under circumstances to endanger the political rights, and to injure the

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pecuniary interests of the people of the United States."

Mr. BENTON said that the resolution which he had offered, though resolved upon, as he had heretofore stated, without consultation with any person, was not resolved upon without great deliberation in his own mind. The criminating resolution, which it was his object to expunge, was presented to the Senate, December 26th, 1833. The Senator from Kentucky who introduced it (Mr. CLAY) commenced a discussion of it on that day, which was continued through the months of January and February, and to the end, nearly, of the month of March. The vote was taken upon the 28th of March; and about a fortnight thereafter he announced to the Senate his intention to commence a series of motions for expunging the resolution from the journal. Here, then, were nearly four months for consideration; for the decision was expected; and he had very anxiously considered, during that period, all the difficulties, and all the proprieties, of the step which he meditated. Was the intended motion to clear the journal of the resolution right in itself? The convictions of his judgment told him that it was. Was expurgation the proper mode? Yes; he was thoroughly satisfied that that was the proper mode of proceeding in this case. For the criminating resolution which he wished to get rid of combined all the characteristics of a case which required erasure, obliteration, blotting out; for it was a case, as he believed, of the exercise of power without authority, without even jurisdiction; illegal, irregular, and unjust. Other modes of annulling the resolution, as rescinding, reversing, repealing, could not be proper in such a case; for they would imply rightful jurisdiction, a lawful authority, a legal action, though an erroneous judgment. All that he denied. He denied the authority of the Senate to pass such a resolution at all; and he affirmed that it was unjust, and contrary to the truth, as well as contrary to law. This being his view of the resolution, he held that the true and proper course, the parliamentary course of proceeding in such a case, was to expunge it.

But, said Mr. B., it is objected that the Senate has no right to expunge any thing from its journal; that it is required by the constitution to keep a journal; and, being so required, could not destroy any part of it. This, said Mr. B., is sticking in the bark, and in the thinnest bark in which a shot, even the smallest, was ever lodged. Various are the meanings of the word keep, used as a verb. To keep a journal is to write down, daily, the history of what you do. For the Senate to keep a journal is to cause to be written down, every day, the account of its proceedings; and, having done that, the constitutional injunction is satisfied. The constitution was satisfied by entering this criminating resolution on the journal; it will be equally satisfied by entering the expunging resolution

on the same journal. In each case the Senate keeps a journal of its proceedings.

It is objected, also, that we have no right to destroy a part of the journal; and that to expunge is to destroy and to prevent the expunged part from being known in future. Not so the fact, said Mr. B. The matter expunged is not destroyed. It is incorporated in the expunging resolution, and lives as long as that lives; the only effect of the expurgation being to express, in the most emphatic manner, the opinion that such matter ought never to have been put in the journal.

Mr. B. said he would support these positions by authority, the authority of eminent examples; and would cite two cases, out of a multitude that might be adduced, to show that expunging was the proper course, the parliamentary course, in such a case as the one now before the Senate, and that the expunged matter was incorporated and preserved in the expunging resolution.

Mr. B. then read, from a volume of British Parliamentary History, the celebrated case of the Middlesex election, in which the resolution to expel the famous John Wilkes was expunged from the journal, but preserved in the expurgatory resolution, so as to be just as well read now as if it had never been blotted out from the journals of the British House of Commons. The resolution ran in these words: "That the resolution of the House of the 17th February, 1769, 'that John Wilkes, Esq., having been, in this session of Parliament, expelled this House, was and is incapable of being elected a member to serve in the present Parliament,' be expunged from the journals of this House, as being subversive of the rights of the whole body of electors of this kingdom." Such, said Mr. B., were the terms of the expunging resolution in the case of the Middlesex election, as it was annually introduced from 1769 to 1782, when it was finally passed by a vote of near three to one, and the clause ordered to be expunged was blotted out of the journal, and obliterated, by the clerk at the table, in the presence of the whole House, which remained silent, and all business suspended until the obliteration was complete. Yet the history of the case is not lost. Though blotted out of one part of the journal, it is saved in another; and here, at the distance of half a century, and some thousand miles from London, the whole case is read as fully as if no such operation had ever been performed upon it.

Mr. B. said there was another objection to his motion which he would notice, because it went to the substance of his proceeding; it was the objection brought forward some weeks ago at the presentation of the Alabama instructions to her Senators on the subject of this motion, and which took it up as a question of dignity to the Senate. It seemed to be considered as an attack upon the dignity of the Senate. Not so the fact. The motion is not intended to degrade the Senate; not intended

to impair its dignity; nor will such be the effect, but the contrary. True dignity is best consulted in correcting errors, and in listening calmly to the voice which undertakes to show the existence of errors which require correction. True dignity requires this Senate to listen to this motion with calmness and patience, as the British House of Commons listened to the motions to expunge the famous Middlesex resolutions from their journals, and as the Massachusetts Senate listened to the motion to expunge from their journals the resolutions adopted in a season of great excitement, and which a season of calmness made all feel ought never to have been put there. This is what true dignity required from the Senate, and he trusted it was what the Senate would be found to exhibit.

A year ago, said Mr. B., the Senate tried President Jackson; now the Senate itself is on trial nominally before itself; but in reality before America, Europe, and posterity. We shall give our voices in our own case; we shall vote for or against this motion, and the entry upon the record will be according to the majority of voices. But that is not the end, but the beginning of our trial. We shall be judged by others; by the public, by the present age, and by all posterity! The proceedings of this case, and of this day, will not be limited to the present age; they will go down to posterity, and to the latest ages. President Jackson is not a character to be forgotten in history. His name is not to be confined to the dry catalogue and official nomenclature of mere American Presidents. Like the great Romans who attained the consulship, not by the paltry arts of electioneering, but through a series of illustrious deeds, his name will live, not for the offices he filled, but for the deeds which he performed. He is the first President that has ever received the condemnation of the Senate for the violation of the laws and the constitution, the first whose name is borne upon the journals of the American Senate for the violation of that constitution which he is sworn to observe, and of those laws which he is bound to see faithfully executed. Such a condemnation cannot escape the observation of history. It will be read, considered, judged! when the men of this day, and the passions of this hour, shall have passed to eternal repose.

Before he proceeded to the exposition of the case which he intended to make, he wished to call himself of an argument which had been conclusive elsewhere, and which he trusted could not be without effect in this Senate. It was the argument of public opinion. In the case of the Middlesex election, it had been decisive with the British House of Commons.

Mr. B. then took up a volume of British Parliamentary History for the year 1782, the 22d volume, and read various passages from pages 1407, 1408, 1410, 1411, to show the stress which had been laid on the argument of public opinion in favor of expunging the Middlesex

resolutions, and the deference which was paid to it by the House, and by members who had, until then, opposed the motion to expunge. He read first from Mr. Wilkes's opening speech, on renewing his annual motion for the fourteenth time, as follows:

"If the people of England, sir, have at any time explicitly and fully declared an opinion respecting a momentous constitutional question, it has been in regard to the Middlesex election in 1768." * * *

* "Their voice was never heard in a more clear and distinct manner than on this point of the first magnitude for all the electors of the kingdom, and I trust will now be heard favorably."

He then read from Mr. Fox's speech. Mr. Fox had heretofore opposed the expunging resolution, but now yielded to it in obedience to the voice of the people.

"He (Mr. Fox) had turned the question often in his mind, and he was still of opinion that the resolution which gentlemen wanted to expunge was founded on proper principles." * * * "Though he opposed the motion, he felt very little anxiety for the event of the question; for when he found the voice of the people was against the privilege, as he believed was the case at present, he would not preserve the privilege." * * * "The people had associated, they had declared their sentiments to Parliament, and had taught Parliament to listen to the voice of their constituents."

Having read these passages, Mr. B. said they were the sentiments of an English whig of the old school. Mr. Fox was a whig of the old school. He acknowledged the right of the people to instruct their representatives. He yielded to the general voice himself, though not specially instructed; and he uses the remarkable expression which acknowledges the duty of Parliament to obey the will of the people. "They had declared their sentiments to Parliament, and had taught Parliament to listen to the voice of their constituents." This, said Mr. B., was fifty years ago; it was spoken by a member of Parliament, who, besides being the first debater of his age, was at that time Secretary at War. He acknowledged the duty of Parliament to obey the voice of the people. The son of a peer of the realm, and only not a peer himself because he was not the eldest son, he still acknowledged the great democratic principle which lies at the bottom of all representative Government. After this, after such an example, will American Senators be unwilling to obey the people? Will they require the people to teach Congress the lesson which Mr. Fox says the English people had taught their Parliament fifty years ago? The voice of the people of the United States had been heard on this subject. The elections declared it. The vote of many Legislatures declared it. From the confines of the Republic the voice of the people came rolling in—a swelling tide, rising as it flowed—and covering the Capitol with its mountain waves. Can that voice be disregarded? Will members of a republican Congress be less obedient to the voice of the

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people than were the representatives of a monarchical House of Commons?

Mr. B. then proceeded to the argument of his motion. He moved to expunge the resolution of March 28, 1834, from the journals of the Senate, because it was illegal and unjust; vague and indefinite; a criminal charge without specification; unwarranted by the constitution and laws; subversive of the rights of defence which belong to an accused and impeachable officer; of evil example, and adopted at a time and under circumstances to involve the political rights and the pecuniary interests of the people of the United States in peculiar danger and serious injury.

These reasons for expunging the criminalizing resolution from the journals, Mr. B. said, were not phrases collected and paraded for effect, or strung together for harmony of sound. They were each, separately and individually, substantive reasons; every word an allegation of fact, or of law. Without going fully into the argument now, he would make an exposition which would lay open his meaning, and enable each allegation, whether of law or of fact, to be fully understood, and replied to in the sense intended.

1. *Illegal and unjust.*—These were the first heads under which Mr. B. would develop his objections, he would say the outline of his objections, to the resolution proposed to be expunged. He held it to be illegal, because it contained a criminal charge, on which the President might be impeached, and for which he might be tried by the Senate. The resolution adopted by the Senate is precisely the first step taken in the House of Representatives to bring on an impeachment. It was a resolution offered by a member in his place, containing a criminal charge against an impeachable officer, debated for a hundred days, and then voted upon by the Senate, and the officer voted to be guilty. This is the precise mode of bringing on an impeachment in the House of Representatives; and, to prove it, Mr. B. would read from a work of approved authority on parliamentary practice; it was from Mr. Jefferson's Manual. Mr. B. then read from the Manual, under the section entitled impeachment, and from that head of the section entitled accusation. The writer was giving the British Parliamentary practice, to which our own constitution is conformable. "The Commons, as the grand inquest of the nation, became suitors for penal justice. The general course is to pass a resolution containing a criminal charge against the supposed delinquent, and then to direct some members to impeach him by oral accusation at the bar of the House of Lords, in the name of the Commons."

Repeating a clause of what he had read, Mr. B. said the general course is to pass a criminal charge against the supposed delinquent. This is exactly what the Senate did; and what did it do next? Nothing. And why nothing? Because there was nothing to be done by them

but to execute the sentence they had passed; and that they could not do. Penal justice was the consequence of the resolution; and a judgment of penalties could not be attempted on such an irregular proceeding. The only kind of penal justice which the Senate could inflict was that of public opinion; it was to ostracise the President, and to expose him to public odium, as a violator of the laws and constitution of his country. Having shown the resolution to be illegal, Mr. B. would pronounce it to be unjust; for he affirmed the resolution to be untrue; he maintained that the President had violated no law, no part of the constitution, in dismissing Mr. Duane from the Treasury, appointing Mr. Taney, or causing the deposits to be removed; for these were the specifications contained in the original resolution, also in the second modification of the resolution, and intended in the third modification, when stripped of specifications, and reduced to a vague and general charge. It was in this shape of a general charge that the resolution passed. No new specifications were even suggested in debate. The alterations were made voluntarily, by the friends of the resolution, at the last moment of the debate, and just when the vote was to be taken. And why were the specifications then dropped? Because no majority could be found to agree in them? or because it was thought prudent to drop the name of the Bank of the United States? or for both these reasons together? Be that as it may, (said Mr. B.,) the condemnation of the President, and the support of the bank, were connected in the resolution, and will be indissolubly connected in the public mind; and the President was unjustly condemned in the same resolution that befriended and sustained the cause of the bank. He held the condemnation to be untrue in point of fact, and therefore unjust; for he maintained that there was no breach of the laws and constitution in any thing that President Jackson did, in removing Mr. Duane, or in appointing Mr. Taney, or in causing the deposits to be removed. There was no violation of law, or constitution, in any part of these proceedings; on the contrary, the whole country, and the Government itself, was redeemed from the dominion of a great and daring moneyed corporation, by the wisdom and energy of these very proceedings.

2. *Vague and indefinite; a criminal charge without specification.*—Such was the resolution, Mr. B. said, when it passed the Senate; but such it was not when first introduced, nor even when first altered; in its first and second forms it contained specifications, and these specifications identified the condemnation of the President with the defence of the bank; in its third form these specifications were omitted, and no others were substituted; the bank and the resolution stood disconnected on the record, but as much connected in fact as ever. The resolution was reduced to a vague and indefinite form on purpose, and in that circumstance acquired a new

character of injustice to President Jackson. His accusers should have specified the law, and the clause in the constitution which was violated; they should have specified the acts which constituted the violation. This was due to the accused, that he might know on what points to defend himself; it was due to the public, that they might know on what points to hold the accusers to their responsibility, and to make them accountable for an unjust accusation. To sustain this position, Mr. B. had recourse to history and example, and produced the case of Mr. Giles's accusation of General Hamilton, then Secretary of the Treasury, in the year 1793. Mr. Giles, he said, proceeded in a manly, responsible manner. He specified the law and the alleged violations of the law, so that the friends of General Hamilton could see what to defend, and so as to make himself accountable for the accusation. He specified the law, which he believed to be violated, by its date and its title; and he specified the two instances in which he held that law to have been infringed.

For the purpose of exposing the studied vagueness of the resolution as passed, detecting its connection with the Bank of the United States, demonstrating its criminal character in twice retaining the criminal averment, "dangerous to the liberties of the people," and showing the progressive changes it had to undergo before it could conciliate a majority of the votes, Mr. B. would exhibit all three of the resolutions, and read them side by side of each other, as they appeared before the Senate in the first, second, and third forms which they were made to wear. They appeared first in their embryo, or primordial form; then they assumed their aurelia, or chrysalis state; in the third stage, they reached the ultimate perfection of their imperfect nature.

[The three different forms of the sentence were here read.]

Having exhibited the original resolution, with its variations, Mr. B. would leave it to others to explain the reasons of such extraordinary metamorphoses. Whether to get rid of the bank association, or to get rid of the impeachment clause, or to conciliate the votes of all who were willing to condemn the President, but could not tell for what, it was not for him to say; but one thing he would venture to say, that the majority who agreed in passing a general resolution, containing a criminal charge against President Jackson, for violating the laws and the constitution, cannot now agree in naming the law or the clause in the constitution violated, or in specifying any act constituting such violation. And here Mr. B. paused, and offered to give way to the gentlemen of the opposition, if they would now undertake to specify any act which President Jackson had done in violation of law or constitution.

[No answer was made.]

The condemnation of the President is indissolubly connected with the cause of the bank! The first form of the resolution exhibited the connection; the second form did also; every speech did the same; for every speech in condemnation of the President was in justification of the bank; every speech in justification of the President was in condemnation of the bank; and thus the two objects were identical and reciprocal. The attack of one was a defence of the other; the defence of one was the attack of the other. And thus it continued for the long protracted period of nearly one hundred days—from December 26th, 1833, to March 28th, 1834—when, for reasons not explained to the Senate, upon a private consultation among the friends of the resolution, the mover of it came forward to the Secretary's table, and voluntarily made the alterations which cut the connection between the bank and the resolution! but it stood upon the record, by striking out every thing relative to the dismissal of Mr. Duane, the appointment of Mr. Taney, and the removal of the deposits. But the alteration was made in the record only. The connection still subsisted in fact, now lives in memory, and shall live in history. Yes, sir, said Mr. B., addressing himself to the President of the Senate; yes, sir, the condemnation of the President was indissolubly connected with the cause of the bank, with the removal of the deposits, the renewal of the charter, the restoration of the deposits, the vindication of Mr. Duane, the rejection of Mr. Taney, the fate of elections, the overthrow of Jackson's administration, the fall of prices, the distress meetings, the distress memorials, the distress committees, the distress speeches; and all the long list of hapless measures which astonished, terrified, afflicted, and deeply injured the country during the long and agonized protraction of the famous panic session. All these things are connected, said Mr. B., and it became his duty to place a part of the proof which established the connection before the Senate and the people.

Mr. B. then took up the appendix to the report made by the Senate's Committee of Finance on the bank, commonly called Mr. Tyler's report, and read extracts from instructions sent to two-and-twenty branches of the bank, contemporaneously with the progress of the debate on the criminating resolutions; the object and effect of which, and their connection with the debate in the Senate, would be quickly seen. Premising that the bank had despatched orders to the same branches in the month of August, and had curtailed \$4,066,000, and again in the month of October to curtail \$5,925,000, and to increase the rates of their exchange, and had expressly stated in a circular on the 17th of that month, that this reduction would place the branches in a position of entire security, Mr. B. invoked attention to the shower of orders, and their dates, which he was about to read. He read passages from page 77 to 83,

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inclusive. They were all extracts of letters from the president of the bank in person, to the presidents of the branches; for Mr. B. said it must be remembered, as one of the peculiar features of the bank attack upon the country last winter, that the whole business of conducting this curtailment, and raising exchanges, and doing whatever it pleased with the commerce, currency, and business of the country, was withdrawn from the board of directors, and confided to one of those convenient committees of which the president is ex officio member and creator; and which, in this case, was expressly absolved from reporting to the board of directors! The letters, then, are all from Nicholas Biddle, president, and not from Samuel Jaudon, cashier, and are addressed direct to the presidents of the branch banks.

[Here Mr. B. read the instructions to the two-and-twenty branch banks, all dated in January, when the business of panic-making had commenced in Congress, ordering a third large curtailment, and an increased rate of exchange—this new and heavy curtailment being ordered to meet "*new measures of hostility understood to be in contemplation against the bank.*" This "*contemplated measure of hostility*" was shown to be a mere falsehood, none such being intended or done; and the money thus extorted from the distressed debtors being sent to London, to lie there for a rise in foreign exchange; and the curious spectacle being presented that the bank was making the distress on one pretext, *that of a new contemplated measure*; while its friends in Congress were justifying it on another, *that of a removal of the deposits.*]

Mr. B. then took six positions, which he enumerated, and undertook to demonstrate to be true. They were:

1. That it was untrue, in point of fact, that there were any new measures in contemplation, or action, to destroy the bank.

2. That it was untrue, in point of fact, that the President harbored hostile and revengeful designs against the existence of the bank.

3. That it was untrue, in point of fact, that there was any necessity for this third curtailment, which was ordered the last of January.

4. That there was no excuse, justification, or apology for the conduct of the bank in relation to domestic exchange, in doubling its rates, breaking it up between the five western branches, turning the collection of bills upon the principal commercial cities, and forbidding the branch at New Orleans to purchase bills on any part of the West.

5. That this curtailment and these exchange regulations in January were political and revolutionary, and connected themselves with the resolution in the Senate for the condemnation of President Jackson.

6. That the distress of the country was occasioned by the Bank of the United States and the Senate of the United States, and not by the removal of the deposits.

Having stated his positions, Mr. B. proceeded to demonstrate them.

Mr. B. returned to the resolution which it was proposed to expunge. He said it ought to go. It was the root of the evil, the father of the mischief, the source of the injury, the box of Pandora, which had filled the land with calamity and consternation for six long months. It was that resolution, far more than the conduct of the bank, which raised the panic, sunk the price of property, crushed many merchants, impressed the country with the terror of an impending revolution, and frightened so many good people out of the rational exercise of their elective franchise at the spring elections. All these evils have now passed away. The panic has subsided; the price of produce and property has recovered from its depression, and risen beyond its former bounds. The country is tranquil, prosperous, and happy. The States which had been frightened from their propriety at the spring elections, have regained their self-command. Now, with the total vanishing of its effects, let the cause vanish also. Let this resolution for the condemnation of President Jackson be expunged from the journal of the Senate! Let it be effaced, erased, blotted out, obliterated from the face of that page on which it should never have been written! Would to God it could be expunged from the page of all history, and from the memory of all mankind. Would that, so far as it is concerned, the minds of the whole existing generation should be dipped in the fabulous and oblivious waters of the river Lethe. But these wishes are vain. The resolution must survive and live. History will record it; memory will retain it; tradition will hand it down. In the very act of expurgation it lives; for what is taken from one page is placed on another. All atonement for the unfortunate calamitous act of the Senate is imperfect and inadequate. Expunge, if we can, still the only effect will be to express our solemn convictions, by that obliteration, that such a resolution ought never to have soiled the pages of our journal. This is all that we can do; and this much we are bound to do, by every obligation of justice to the President, whose name has been attainted; by every consideration of duty to the country, whose voice demands this reparation; by our regard to the constitution, which has been trampled under foot; by respect to the House of Representatives, whose function has been usurped; by self-respect, which requires the Senate to vindicate its justice, to correct its errors, and re-establish its high name for equity, dignity, and moderation. To err is human; not to err is divine; to correct error is the work of supereminent and also superhuman moral excellence, and this exalted work it now remains for the Senate to perform.

Public Deposits.

The bill to regulate the deposits of the public money in the State banks having been taken up,

Mr. BROWN briefly explained the reasons upon which he intended to vote, viz: that the terms prescribed in the bill upon which the State banks are to receive the deposits, were calculated to defeat the object in view.

Mr. BRAS desired to change his vote in regard to this bill, on the ground that he could not approve of the provision relative to the amount of specie these banks should be required to have in their vaults. And he did not feel himself at liberty to give any vote that might seem to sanction the late unconstitutional removal of the deposits from the Bank of the United States.

Mr. EWING admitted there was much force in what was said by the gentleman from Kentucky, but he did not think that the present act of legislation went to sanction the removal of the deposits.

On motion of Mr. BLACK, the yeas and nays were demanded on the passage of the bill, and were taken as follows:

YEAS.—Messrs. Benton, Black, Calhoun, Cuthbert, Clayton, Ewing, Frelinghuysen, Goldsborough, Kent, Knight, Leigh, Linn, McKean, Mangum, Moore, Porter, Prentiss, Preston, Robinson, Robbins, Swift, Smith, Southard, Tomlinson, Tyler, Waggaman, Webster, White—28.

NAYS.—Messrs. Bibb, Brown, Buchanan, Hendricks, Hill, Kane, King of Alabama, Morris, Poindexter, Ruggles, Shepley, Tallmadge—12.

So the bill was passed.

Expurgation of the Journal.

The resolution of Mr. BENTON again coming up,

Mr. SOUTHARD said the resolution of the 28th March, 1834, declared, as the opinion of the Senate, that the President, "in the late executive proceedings in relation to the public revenue, has assumed upon himself authority and power not conferred by the constitution and laws, but in derogation of both."

The resolution now under consideration (said Mr. S.) orders that of 28th March to be "expunged" from the journals, and assigns the reasons for so doing.

The object of this resolution (said Mr. S.) is not to obtain an expression from the Senate that their former opinions were erroneous, nor that the Executive acted correctly in relation to the public treasury. It goes further, and denounces the act of the Senate as so unconstitutional, unjustifiable, and offensive, that the evidence of it ought not to be permitted to remain upon the records of the Government. It is an indictment against the Senate. The Senator from Missouri calls upon us to sit in judgment upon our own acts, and warns us that we can save ourselves from future and lasting de-

nunciation and reproach, only by pronouncing our own condemnation by our votes. He assures us that he has no desire or intention to degrade the Senate, but the position in which he would place us is one of deep degradation—degradation of the most humiliating character—which not only acknowledges error, and admits inexcusable misconduct in this legislative branch of the Government, but bows it down before the majesty of the Executive, and makes us offer incense to his infallibility.

I am neither unprepared, Mr. President, nor reluctant to plead, for myself, not guilty, to this indictment; nor shall I hesitate to record my vote upon the issue which is forced upon us. Be the final close of the controversy what it may, I have conscientiously chosen my ground upon the questions which are involved, and will abide the sober and deliberate judgment of the country. The resolution of the 28th March, which it is proposed to expunge, asserts that the Executive had performed certain acts in relation to the public revenue, and that these acts were in derogation of the constitution and laws. It is no longer necessary to debate the truth of the first assertion. The removal of the money was the act of the Executive, on his own responsibility, and is now claimed by him and his advocates as highly meritorious, demanding increased admiration and renewed expressions of gratitude from a thankful people. The character of the acts only, and the right of the Senate to express its opinion, are now in question.

Upon these I have heretofore declared the views which I entertain; and I shall not trouble the Senate by a particular exposition of them at this time. I regarded the conduct of the Executive as a violation of law. The statute gave to the bank the right to be the depository of the public money; and it was not provided, in that statute, that the President might, of his own mere will, take it away. The charter was a solemn contract between the nation and the stockholders, which the Government was bound to regard, by every consideration which can operate upon national honor and justice. For this contract the holders of the stock had paid one and a half million of dollars, and performed most important and valuable services. It was a gross breach of the public faith to deprive them of their part of the bargain. If the bank had misbehaved, if its directors had made illegal claims upon the Government, if they had improperly opposed the election of an individual to the presidency, or in any manner broken their charter, the mode of punishment was prescribed by law, and the courts of the country were open; in which, if guilty, they might have been condemned. The tyrant's *vis* *volens*—I will it—could not properly be exercised in such a case.

But we are now required to expunge the expression of our opinion from the journals, and to erase the resolution. And I, Mr. President, stand here a commanded man—ordered by the

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Legislature of my own State to denounce my own act—to obliterate my own vote—to violate the journals of this body—to degrade this high constitutional assembly—and to disregard my own sacred obligations to sustain and support the constitution of my country, according to the dictates of my judgment. Sir, in such a condition, hesitation would be criminal—obedience would be treason against conscience and duty.

Mr. President, have we the constitutional power, right, or authority, to pass this resolution—to expunge from the journals of the Senate the resolution which was passed and recorded at the last session? It is a solemn question. It requires a solemn answer, and must be met without evasion, and in its true import. The resolution does not call upon us to put upon the journals, at this time, a declaration that we were then in error. It does not require us to rescind or alter, or in any mode overrule the former decision. The instructions of the Legislatures do not call upon us to do this, but to expunge. They know the mover of this resolution is not ignorant of the term expunge. Obedience to the instructions requires us to obliterate, erase, alter the journal; in substance, to tear from it the entry which is there made. Any thing short of this is evasion; it is disobedience. He who is instructed to expunge, and votes for any thing short of expunging, or any thing different from expunging, may evade his orders, but he does not obey them. He may cavil about the meaning, and tell us he does something which is equivalent, and which will satisfy the Legislature which instructed him; but he offers insult to them, in the very act of professed submission. Are they ignorant of the meaning of their own orders or instructions? Or will they be satisfied with partial obedience? If they have the authority to command, shall their servants tell them, You did not mean what you said; you will be content if I construe your orders in my own way, and if I do not what you did command, but what you ought to have commanded. This course will not answer. Mr. President, let us meet the question fairly and openly. The object of the mover, the object of the instructing Legislatures is, to take out of the journals what they choose to call the condemnation of the President, so that it shall remain there no longer. We are expected to follow the example of the English House of Commons, in the case of John Wilkes; to order our Secretary to obliterate the journal, to stop the business of the Senate, to command silence, and sit by while the act is performed. Can we do it? What says the constitution? In the third item of the fifth section of the third article are these words: "Each House shall keep a journal of its proceedings, and, from time to time, publish the same, excepting such parts as may, in their judgment, require secrecy; and the yeas and nays of the members of either House, on any

question, shall, at the desire of one-fifth of those present, be entered on the journal."

The journal which we are now called on to deface is the journal thus prescribed in the constitution. The resolution which we are to expunge is a part of that journal. The yeas and nays have been entered upon it, and stand there in testimony—perpetual may that testimony remain—of the opinions and action of the Senate. It has been published and scattered to the four corners of our Union. We may reverse our decision and change our votes, but can we expunge that decision and obliterate the record? In my judgment, it would be an infraction of the constitution, a sacrilegious violation of a document which has all the inviolability which the constitution can confer on any instrument.

The Senator from Missouri, after great deliberation upon the subject, has announced his opinion that we may expunge. He has told us, in substance, that the order of the constitution is that we must "keep a journal," and that this order will be satisfied if we write down from day to day memoranda of what we do; but that, having done this, we have obeyed the constitution, and are at liberty afterwards to erase from it what is incorrect and unconstitutional. This I understand to be his argument. And I must be permitted to express my astonishment at such a construction of this portion of the constitution. I will not say that it is suited to the times, lest it might be considered disrespectful. We are to keep a journal. May we keep it falsely? Misrepresent our acts and votes? Enter upon it what did not take place, or enter untruly that which did? May we state the yeas and noes incorrectly? May we omit decisions which are made, and acts performed? May we insert those which have no existence? If we may not, the reason is that our record must be true and faithful. But if it must be true and faithful when made, have we the right, afterwards, at any period to make it false and untrue? Does the constitution mean that we are to note down truly, day by day, our proceedings; and yet, that a week, or month, or year afterwards, we may alter it as we please—falsify it? May we send it down to posterity with a falsehood upon its face? Is this keeping a journal, in the meaning of the constitution? No, sir. The constitution had important objects in view in this provision, and it deals in no double meanings. It intended that an honest record of our acts and votes should be made for the information of our fellow-citizens, and that it should remain a perpetual testimony of our faithfulness, or infidelity, to the constitution and the interests of our country, where our contemporaries and our posterity, in all time to come, might see, not our deeds only, but the history of the legislation of the Government. Our constituents have a right to know what we say and what we do, and we have no right to withhold this

knowledge from them; and I rejoice that mine may see and know all that I, as their agent, have done; and that there is no lawful power to hide it from them. The consequences of this modern notion of expunging from the journal what may be unpleasant or offensive to the existing majority, are calculated to alarm those who take an interest in the permanence and prosperity of our institutions. Shall I allude briefly to two or three of them? The striking of our clock and the approaching dissolution of Congress remind me that I must, on every topic, aim rather at brevity than fulness of illustration.

The changes of parties in our country are rapid. The possessors of the "spoils" to-day become the antagonists of power to-morrow. They who enjoy popular confidence now, may shortly find themselves bereft of that confidence, and sinking unhonored into the mass of the community which will no longer regard them with respect. Opinions alter with the interests and condition of the country; and honest, intelligent, and wise men who have formed their policy on existing circumstances, are often obliged to give way to others better skilled in the approaching or expected wants and relations of the nation. All this does take place; all this may and will take place hereafter, in the progress of society. I am no railer at popular changes. I have as much confidence as any man in the intelligence, firmness, and stability of the people of this country; and certainly do not yield, on this point, to any noisy demagogue, who supports to-day principles which he held up to scorn yesterday—with professions of devotion to the people on his tongue, and purposed deception and selfish ambition in his heart. I speak only of facts—changes have happened. If society shall progress and be prosperous and free, they must happen hereafter. It is the condition of every human society, especially when it is free. There are, there must be, frequent changes in public men and public measures. Shall it be established as the constitutional doctrine, that, on every change the triumphant majority may erase from our records the acts and votes of their predecessors? If you pass this resolution, and it be established that we may alter and falsify the journals, such may, and not improbably will, be the course of our future history. The worst men in power will have the strongest temptation to erase the acts of the best. The most servile devotees of the favorite of the hour will be most likely to seek his favor, by expunging whatever may be obnoxious to him, or an obstacle in the way of his purposes. Your journal will cease to be a record of your acts; and may be made an instrument to aid the advance of corruption and despotism.

Observe the danger of this doctrine in another aspect. The Senate sits in secret, when advising the President upon treaties, appointments, &c. The record of their acts, with closed doors, is a part of the journals. If base

motives have governed, if treachery to the best interests of the people have been exhibited, if a responsibility has been assumed which may overwhelm the guilty when the journal shall be published, and their conduct exhibited, how easily will this doctrine now to be established, and this example now to be given, enable them to conceal for ever their guilt, and evade the account which the public might require. It was better to have no journal of our secret sessions, but to leave every member to give such relation of our actions as his interest dictated, or his regard for truth might require.

Mr. President, will you look to another consequence? Entries are made on these journals of the votes and proceedings which create, enact, and give validity to the laws of the land; and to all those acts which are enjoined on the Senate by the constitution—laws, treaties, appointments, judgments on impeachment, every thing. Shall we calmly establish the doctrine that these votes may be expunged, and these constitutional acts be left unsustained by the authority which gives them sanction and validity? For, sir, even the proceedings and judgments upon an impeachment may as well be expunged, as any other item in that record. It is a process of nullification new in the theory and practice of our Government, now first attempted, and whose consequences no man can anticipate or depict. For me, sir, it is impossible to bring myself to a belief in its correctness. The constitution commands us to keep a journal. It must be true and faithful; it must remain inviolable; and when you shall have expunged any thing from it, you will have disregarded one of the plainest and most important injunctions of our great constitutional charter.

Virginia Military Land Warrants.

The Senate considered, as in Committee of the Whole, the bill granting an additional quantity of land in satisfaction of unlocated Virginia military bounty land warrants.

Mr. OLAY opposed the bill, on the ground that the number of acres appropriated would not be sufficient for the purpose of satisfying all these claims; we did not know when we should ever stop. The gentleman from Virginia (Mr. TYLER) informed him, formerly, that the last appropriation would be sufficient, and yet we appeared to be no nearer the end of this business than we were then.

Mr. EWING would much rather appropriate the sum of \$687,500, instead of five hundred and fifty thousand acres, and then we should know what we were about.

Mr. LEIGH made some remarks in favor of the bill. He said this appropriation could not be considered as made to Virginia, any more than to Ohio, Kentucky, or Tennessee, for not one-twentieth of these claimants reside in that State.

Mr. TYLER said, if the original appropriation of five hundred thousand acres was just and

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correct, a further appropriation ought to be made to cover all the claims, even if it should amount to five millions of acres. The report made on the subject showed that the great mass of these claims were already satisfied, and he did not think we would be much troubled on the subject hereafter.

Mr. CLAY said that the main cause of this great increase was in consequence of the bills passed giving pension and bounty lands, &c. Since the passage of the act of 1830, they have found in the attic story of the Capitol, a large mass of revolutionary papers, out of which the greater part of these claims have sprung. There seems to be no end of these claims; he was willing to vote for the five hundred and fifty thousand acres, provided it was to be the last.

Mr. POINDEXTER offered an amendment requiring all claimants hereafter to file their claims in the office of the Commissioner of the Land Office within two years, or their claim shall be barred.

The amendment was rejected.

On motion of Mr. LEIGH, the blank was filled with six hundred and fifty thousand acres.

On the question, Shall the bill be engrossed and read a third time?

Mr. HILL asked the yeas and nays; which, being ordered, were as follows:

YEAS.—Messrs. Benton, Bibb, Black, Calhoun, Clay, Cuthbert, Ewing, Goldsborough, Hendricks, Kane, Kent, King of Alabama, Leigh, Linn, Mangum, Moore, Poindexter, Porter, Robbins, Robinson, Silsbee, Southard, Tomlinson, Tyler, Waggaman, White—26.

NAYS.—Messrs. Hill, King of Georgia, Ruggles, Shepley, Swift, Tallmadge, Tipton, Wright—8.

SATURDAY, February 28.

The VICE PRESIDENT communicated the credentials of Hon. BEDFORD BROWN, elected a Senator from North Carolina, for six years from the 4th of March next.

Election of Printer.

Mr. PRESTON moved that the Senate proceed to the election of a printer, on the part of the Senate, for the next Congress.

Mr. CLAY said he had made some opposition to this motion on a former occasion, in the expectation that the House would, by this time, have chosen their printer. As they had not done so, he now waived any further objection to the proceeding.

Mr. BENTON said he intended to move, contemporaneously, for the consideration of his joint resolution to repeal the joint resolution of 1819.

Mr. POINDEXTER hoped the Senate would not go into the consideration of the joint resolution; he was fearful of three hours' speeches.

Mr. PRESTON expressed his disposition to accommodate the gentleman from Missouri, but the resolution for electing a printer was offered two weeks ago, and if the law was to be complied with, there was no fitter occasion for it

than the present. He therefore persisted in his motion.

Mr. P. said that when the joint resolution of the honorable gentleman was referred to the Judiciary Committee, his attention was turned to the history of the printing of Congress; and he found that in 1819 a joint resolution was passed, regulating permanently the mode of getting the printing of the two Houses executed, so far as the prices were the subject of regulation; and the practice has been to elect by ballot ever since. Whatever doubt there may be as to the interpretation of the resolution of 1819, there can be none as to that of 1829, because it re-enacted that of 1819, and required the printing to be done by a printer who was to be elected by ballot. The practice then was of fourteen years' standing; and it was sustained by a joint resolution of the two Houses.

Mr. BENTON said the plan he would propose for having the public printing done hereafter, was the one he should read. [Mr. B. then read a passage from the report of the committee of 1819, in favor of the establishment of a national printing office.] This, he said, is the way the British Parliament does its printing, and it is the best in the world. He said, when up before, that the abuses of printing in the Senate exceeded that of all the other departments of the Government, the Post Office included; and this is to be dated from the point at which we started. In 1819, the total for the Senate was \$8,000, and for the House \$15,000. What is it now? He did not know, nor did he believe any body else knew. For here, in the general appropriation bill, are some \$20,000 for arrearages. What is the increase of \$120,000 beyond \$8,000. It is not quite 20 to 1, but it is 16 or 17 to 1. Now, in what other department of the Government will you find an increase of 16 or 17 fold?

The Senate proceeded to an election; and Messrs. Gales and Seaton were elected.

MONDAY, March 2.

National Printing Office and Book Bindery.

On motion by Mr. BENTON,

Resolved, That the Secretary of State be directed to report a plan with an estimate of the expense, at the commencement of the next Congress, for establishing a Printing Office and Book Bindery at the seat of Government, to do all the printing for the two Houses of Congress, and for all the departments of the Government, Post Office included.

EVENING SESSION.

Case of R. Lawrence—Attempted Assassination of the President.

Mr. SMITH, from the select committee appointed upon the letter of the Hon. GEORGE POINDEXTER, made a report at length, concluding with a resolution that not a shade of suspicion

exists that Mr. POINDEXTER was in any way concerned, directly or indirectly, in the late attempted assassination of the President.

The report was read, and the question being on its adoption,

Mr. WEBSTER asked the yeas and nays; which were ordered, and are as follows:

YEAS.—Messrs. Bell, Bibb, Black, Buchanan, Calhoun, Clay, Clayton, Cuthbert, Ewing, Frelinghuysen, Goldsborough, Grundy, Hendricks, Hill, Kane, Kent, King of Alabama, King of Georgia, Knight, Leigh, Linn, Mangum, Moore, Morris, Naudain, Porter, Preston, Robbins, Robinson, Ruggles, Shepley, Silsbee, Smith, Southard, Swift, Tallmadge, Tipton, Tomlinson, Tyler, Webster, White, Wright—42.

NAYS.—None.

On motion of Mr. SMITH, the report and accompanying documents were ordered to be printed.

Expurgation of the Journal

Mr. PRESTON moved to take up the resolution offered by Mr. BENTON for expunging from the Journal of the Senate the resolution condemning the President; on which question the yeas and nays were ordered, and are as follows:

YEAS.—Messrs. Benton, Brown, Buchanan, Calhoun, Clay, Clayton, Cuthbert, Hill, Kane, King of Alabama, King of Georgia, McKean, Mangum, Moore, Preston, Robinson, Ruggles, Shepley, Tallmadge, White, Wright—21.

NAYS.—Messrs. Bibb, Black, Ewing, Goldsborough, Grundy, Hendricks, Kent, Knight, Leigh, Linn, Naudain, Poindexter, Porter, Prentiss, Robbins, Smith, Southard, Swift, Tipton, Tomlinson, Waggaman, Webster—22.

TUESDAY, March 8.

Expunging Resolutions—North Carolina's Instructions to her Senators.

Mr. MANGUM asked leave to send to the Clerk's table certain resolutions adopted by the Legislature of North Carolina; and asked that the Senate would indulge him in having them read. He said it was not his purpose to detain the Senate by comment upon them. This was not the arena upon which to discuss and adjust any difficulties that had arisen, or that might arise, between his constituents and himself. He would not detain the Senate longer than to express the hope that the expunging resolutions would be taken up in the course of the day, and that he would be allowed to record his vote upon them.

In reference to the instructions, he would avail himself of the occasion barely to say that he should not conform to them. He should vote against the expunging resolution. The Legislature had no right to require him to become the instrument of his own personal degradation. He repelled the exercise of so vindictive a power; and when applied to himself, he repelled it with scorn and indignation.

The members of the Legislature were servants and representatives of the people; he (Mr. M.) was likewise one. That they were disposed to guard with jealousy the honor of the State it was not his province to discuss or to question. He likewise felt it his duty to guard the honor of the State, and not less to guard his own personal honor; both, in his conception, imperiously required him to disregard the resolutions; and, that point being settled in his mind, he trusted no one who knew him could entertain a doubt as to his course on the subject.

Mr. FRELINGHUYSEN said he stood in the same predicament as his friend from North Carolina, (Mr. MANGUM.) He had constitutional objections to complying. He believed the Senate had no power over the Journal. It was a record of the acts of the Senate, guaranteed by the constitution, for the benefit of the minority. He would warn the majority who should be in those seats next session, to leave to him untouched the sacred privilege provided by the constitution for showing his successors how he had acted.

Mr. CALHOUN expressed his regret that the subject had been deferred to so late a period of the session. He believed it the most important subject that had been brought before Congress; and a subject on which he had wished to be heard. He thought they had the same right to express their disapprobation as to flatter the Executive. When they had arrived to such a period as either they must flatter or be silent, they should equal the most degenerate days of the Roman Republic, when the horse of the Emperor was declared Consul.

Mr. KING, of Alabama, said he was surprised at the language of the Senator from South Carolina, (Mr. CALHOUN.) The gentleman spoke of an opportunity of discussing the subject. Did he not remember the presentation of the instructions from Alabama? It was great injustice to insinuate the discussion had been put off by the friends of the administration, when he (Mr. K.) had occupied the Senate most of the time with his report and bills, since the resolution was introduced. The honorable Senator had spoken of flattering the Executive. Had not that Senator heaped upon the President with the utmost license his censures and invectives; and been listened to with far more attention than he had listened to those who spoke in his defence, believing he had acted honestly and with good intentions? Yet the Senator compared them to the degenerate times of the Roman Senate!

Mr. K. said he, for one, was not disposed to be branded as the supple tool of executive power. If the Senator makes such charges, he must except him from the number. Mr. K. said he would not endure it. There were certain disappointed aspirants to power who always viewed things through a gloomy medium, who were ever croaking over the imaginary ruins of our free institutions.

MARCH, 1835.]

Expunging Resolution.

[SENATE.]

Expurgation of the Journal.

Mr. CLAYTON then moved to take up the resolution offered by Mr. BENTON, for expunging from the journal the condemnatory resolution, which motion was agreed to.

Mr. WHITE moved to amend the resolution by striking out the word "expunge," and inserting "rescind, reverse, and to make null and void."

Mr. W. said he could not vote to obliterate and deface the journal of the Senate. He believed it was the right of every Senator to have the votes stand, that the people might know how they had voted. He wished the resolution so framed as to express his feelings on the subject.

Mr. WEBSTER said he should vote against the amendment. He wished to bring the Senate to vote on the original resolution.

Mr. BENTON said he believed the word "expunge" was strictly parliamentary. He did not wish to obliterate the journal, but to make use of a phraseology which would strongly express that the resolution ought never to have been put into that journal. The word "rescind" was not strong enough; it admitted the lawfulness of the act at the time it was done. It was a convenient term when they merely wished to alter any thing that had been found inexpedient. It was a mere harmless word, expressing no marked disapprobation of the propriety of the resolution at the time it was adopted. Every Senator, said Mr. B., might vote to "rescind" the resolution, without altering his opinion in the least. They might say that President Jackson was the first Executive that had ever been condemned in this manner; therefore they would rescind the resolution. Such, and no more, was the force of the term "rescind."

Mr. WHITE said, in his opinion, the term "expunge" referred to obliterating the journal, which he could never consent to have done. He wished the proceedings to stand as they had transpired, and go down unblemished to posterity. He thought the proposed amendment, which declared the resolution null and void, as much as said it never ought to have been inserted in the journal.

Mr. McKEAN, after some introductory remarks, suggested to Mr. WHITE to modify his amendment, so as to adopt the words used by one branch of the Pennsylvania Legislature in their resolution of instruction upon this subject, which would make the amendment more acceptable to him—the effective words were to *repeal and reverse*.

Mr. WHITE said, in adopting the words as a modification, the object of my amendment is to enable each Senator to express the opinion he really entertains of the resolution formerly passed by this body. To vote for the resolution of the Senator from Missouri in its present shape, I cannot. He proposes to "expunge" from our journals one of our resolutions, which

was adopted when our votes were taken and recorded by yeas and nays.

The constitution requires that "each House shall keep a journal of its proceedings, and that, at the desire of one-fifth of the members, the yeas and nays shall be taken upon any question." This constitution each member has solemnly sworn to support. When we speak of the journal of our proceedings, we speak of a book kept here, and under our own inspection, in which is faithfully recorded, under its appropriate date, every transaction of the body. This book is the original, and all others are only copies of it. Now, what is proposed by the resolution? It is to expunge one of the resolutions which we all admit were actually adopted, upon yeas and nays, on the 28th of March, 1834. Now, if we adopt this resolution, we solemnly order that our former resolution shall be erased, rubbed out, blotted, obliterated, or so cancelled that it cannot be read. Suppose this order carried into effect, and any man to read our record, or journal, under date of the 28th March, and he would have no knowledge that such a resolution as that complained of had ever existed.

A discussion of considerable length and much excitement ensued, in which Messrs. BENTON, McKEAN, KING of Georgia, BUCHANAN, MANGUM, CALHOUN, OUTHBERT, FRELINGHUYSEN, KING of Alabama, OLAY, and WEBSTER, participated.

Mr. MOORE said he did not rise to discuss this question at this moment. The very feeble state of his health would not permit it, even if he were disposed. Yet the peculiar situation he occupied in connection with the subject-matter, he hoped would be accepted as his apology for the very few moments he proposed to detain the Senate.

He said it was true, as had been intimated by the honorable Senator from South Carolina, (Mr. CALHOUN,) that the General Assembly of Alabama had sent him two sets of instructions: in the first he was instructed to resign his seat here, and in the second he was instructed to vote in favor of expunging the resolution adopted by the Senate, censuring the course the Executive pursued in relation to the public treasure of the country.

As these resolutions are contradictory in their character, and at variance with each other, he would have found no little difficulty in complying with both, although an advocate for the right of instruction. If he had complied with the first set of instructions, viz: have forthwith resigned his seat, he of course could not have complied with the second set of instructions, viz: he could not have voted in favor of the expunging resolution, as instructed in the second. He therefore, after mature deliberation, had come to the conclusion that, as regarded the first, requiring his resignation, he could not admit the right of the General Assembly to alter or change the constitutional tenure of his office, and he had made an appeal to the sovereign people of the State, to whom the

members of the General Assembly and himself were alike responsible.

Mr. KING, of Alabama, then moved to amend that part of the resolution proposed to be stricken out, by first striking out the words "ordered to be expunged from the journals."

Mr. MOORE demanded the yeas and nays upon the question; which were ordered, and are as follows:

YEAS.—Messrs. Bell, Benton, Bibb, Black, Buchanan, Clay, Clayton, Cuthbert, Ewing, Frelinghuysen, Goldsborough, Grundy, Hendricks, Kane, Kent, King of Alabama, King of Georgia, Knight, Leigh, Linn, McKean, Mangum, Moore, Morris, Naudain, Prentiss, Preston, Robbins, Robinson, Silabee, Smith, Southard, Swift, Tipton, Tomlinson, Tyler, Waggonman, Webster, White—39.

NAYS.—Messrs. Brown, Hill, Porter, Ruggles, Shepley, Tallmadge, Wright—7.

So the motion to strike out prevailed.

Mr. WEBSTER said, the vote, the great vote, which the Senate has now given, has accomplished all that I have ever desired respecting this expunging resolution.

The resolution of the Senate of the 28th of March, which it has been proposed to expunge from the journals, asserted the proposition that the conduct of the President in relation to the public revenue had been unconstitutional. Now, this proposition might be true, or not; it was a matter on which gentlemen voted on both sides. It implies, doubtless, a power in the Senate to express an opinion on the conduct of the President, and there may always be some who deny or doubt that power. It would have been perfectly in order, at any subsequent time last session, or at any time this, to have brought forward resolutions declaring that the Senate has no such power. We must have met the resolutions, debated them, and voted on them. If they had passed, they would of course have stood in contradiction to the preceding resolutions; and all that could have been said is that the Senate had passed inconsistent resolutions. Propositions, it is possible, may be made hereafter, in contradiction to the principles of the resolution of March. These things must be expected, and must be met when they arrive. But that which made this resolution, which we have now amended, particularly offensive, was this: it proposed to expunge our journal. It called on us to violate, to obliterate, to erase, our own records. It was calculated to fix a particular stigma, a peculiar mark of reproach or disgrace, on the resolution of March last. It was designed to distinguish it, and reprobate it, in some special manner. Now, sir, all this, most happily, is completely defeated by the almost unanimous vote of the Senate which has just now been taken. The Senate has declared, in the most emphatic manner, that its journal shall not be tampered with. I rejoice most heartily, sir, in this decisive result. It is now settled, by authority not likely to be shaken, that our records are sacred. Men may change, opinions may change, power may change, but,

thanks to the firmness of the Senate, the records of this body do not change. No instructions from without, no dictates from principalities or powers, nothing—nothing—can be allowed to induce the Senate to falsify its own records, to disgrace its own proceedings, or violate the rights of its members. For one, sir, I feel that we have fully and completely accomplished all that could be desired in relation to this matter. The attempt to induce the Senate to expunge its journal has failed, signally and effectually failed. The record remains, neither blurred, blotted, nor disgraced.

Now, sir, as to the principles involved in that resolution, I am willing to discuss them at any suitable time hereafter. At present there is no leisure for such discussion; and the Senate having now, by so large and decisive a vote, expunged whatever was offensive in the expunging resolution, and there being no time for further discussion, I shall conclude by a motion which I forewarn friends and foes that I shall not withdraw, which is, that the resolution be laid on the table.

Upon this motion, without further debate, the yeas and nays were taken, as follows:

YEAS.—Messrs. Bell, Bibb, Black, Calhoun, Clay, Clayton, Ewing, Frelinghuysen, Goldsborough, Kent, Knight, Mangum, Naudain, Poindexter, Porter, Prentiss, Preston, Robbins, Silabee, Smith, Southard, Swift, Tipton, Tomlinson, Tyler, Waggonman, Webster—27.

NAYS.—Messrs. Benton, Brown, Buchanan, Cuthbert, Grundy, Hill, Kane, King of Alabama, King of Georgia, Leigh, Linn, McKean, Moore, Morris, Robinson, Ruggles, Shepley, Tallmadge, White, Wright—20.

So the resolution was laid on the table.

[The instant this vote was taken and the resolution laid upon the table, Mr. BENTON rose to re-instate the word *expunge*, which he had yielded to friends; and gave notice that he should renew the resolution with that word in it, and never yield it again to friend or foe.]

Mr. BENTON submitted the following resolution, which he desired to stand for the second week of the next session:

Resolved, That the resolution adopted by the Senate on the 28th day of March, in the year 1834, in the following words, "*Resolved*, That the President, in the late executive proceedings in relation to the public revenue, has assumed upon himself authority and power not conferred by the constitution and laws, but in derogation of both," be, and the same hereby is, ordered to be expunged; because the said resolution is illegal and unjust, of evil example, indefinite, and vague, expressing a criminal charge without specification, and was irregularly and unconstitutional adopted by the Senate, in subversion of the rights of defence which belong to an accused and impeachable officer; and at a time and under circumstances to endanger the political rights, and to injure the pecuniary interests of the people of the United States.

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Fortification Bill—Extra Appropriation.

[SENATE.]

President Pro Tempore.

At six o'clock the VICE-PRESIDENT left the chair, and the Senate proceeded, by ballot, to elect a President *pro tempore* for the remainder of the session.

Mr. TYLER, having received a majority of the whole number of votes, was declared duly elected; and having been conducted to the chair by Mr. KING, of Alabama, he addressed the Senate as follows:

SENATORS: In calling upon me unexpectedly to preside over your deliberations, you have conferred upon me a testimonial of your respect and confidence, upon which I place the highest value. I accept it with gratitude, and shall fondly cherish its recollection. You are the representatives of sovereign States, deputed by them to uphold and maintain their rights and interests. Unlike the Roman Senate, so much vaunted of in ancient story, you owe your elevation to the high seats which you occupy, to no adventitious circumstance of birth or fortune, but to the ennobling traits of intellect and virtue. And what citizens of any one of these States can fail to be proud of you? Who can reflect without high satisfaction on the daily display of intellectual vigor constantly manifested in the debates which here occur? Party contests may divide and sever; those contests constitute the organic principle of free States. You may, severally, in your turn, have become the objects of attack and denunciation before the public; but there is not, and cannot be, an American who does not turn his eyes to the Senate of the United States, as to the great conservative body of our federal system, and to this chamber as the ark in which the covenant is deposited. To have received, therefore, at your hands, this station, furnishes to me abundant cause for self-gratulation. This feeling is not diminished by the fact that but few hours now remain to this session, and that I shall be probably called upon to render but little active service in this place. Upon this circumstance, I congratulate both you and myself; for, although I have, for the greater portion of twenty years, been connected with legislative bodies, this is the first time I have ever been called upon to preside over the deliberations of any; and I have only sought so far to make myself acquainted with the rules of parliamentary proceeding, as to avoid any flagrant violation of them in my personal conduct. For the short period which will now elapse prior to your adjournment, I claim, and shall doubtless receive, at your hands, for the defects which I may exhibit, and the errors into which I may fall, a liberal indulgence.

On motion of Mr. KING, of Alabama, the Secretary of the Senate was directed to inform the President of the United States, and the House of Representatives, that the Senate had elected the honorable JOHN TYLER President *pro tempore* of the Senate.

Fortification Bill—Extra Appropriation.

The Senate proceeded to consider the message from the House of Representatives, proposing to amend one of the Senate's amendments to the annual fortification appropriation bill, by adding thereto the following:

"Sec. 2. And be it further enacted, That the sum of three millions of dollars be, and the same is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to be expended, in whole or in part, under the direction of the President of the United States, for the military and naval service, including fortifications and ordnance, and increase of the navy: Provided, such expenditures shall be rendered necessary for the defence of the country prior to the next meeting of Congress."

Mr. WEBSTER expressed his hope that the Senate would disagree at once to this amendment.

Mr. CALHOUN said that the amount of the appropriation asked for was extremely large, and, what was most extraordinary, it was to be made on the supposition that this country was to be involved in a war with France, and either without previous declaration, or with a declaration to be issued by the Executive, without first calling Congress together.

Mr. LEIGH could not forbear expressing the astonishment he felt at the course which the House of Representatives had thought proper to pursue in regard to this appropriation. For his own part, he was free to confess that he would as soon vote to give the Chief Magistrate of this Republic unlimited power at once, as vote to place at his entire disposal and discretion such an enormous sum of money as was contemplated by this amendment. He had not met with a single human being who wished to convert our free form of Government into an absolute monarchy, nor did he believe that any man in this country desired such a change. Yet here was a proposition which went to establish a military monarchy; it was, in fact, in the very form of a proposition of that sort. They might almost as well say that the President should be made Consul for life, or Emperor of the American people. It was, indeed, a most remarkable proposition, and one which he never expected to hear.

Mr. WRIGHT did not feel that great alarm which the Senator from Virginia appeared to feel. They all knew very well why the provision, so much complained of by some Senators, was inserted in the bill. It was because they were about to adjourn when there was a peculiar crisis in our foreign relations, and it was too late to have gone into the detail of legislation. For himself, he could say—whatever others might think—that he did not believe that a dollar of the money which was now proposed to be appropriated would be expended, though no one knew what might happen. They had been told by the gentleman from Massachusetts that this country was not to be brought into a war until Congress should have been first convened. Now, nothing as to that was implied in this proposition; it was merely putting in the power of the President, in any contingency that might happen, the means to secure the safety of the country until the assembling of Congress.

Mr. LINN said he should vote for this appro-

priation, although it was an extraordinary one, because he thought it necessary under the present aspect of affairs. He could not believe that this Chief Magistrate, or any other who might preside over the destinies of this people, would make a wrong or improper application of their funds.

Mr. LEIGH did not vote against the appropriation from any fear as to the use which might be made of the money; but he voted against it on the ground that it was at war with the doctrine of constitutional liberty.

Mr. SOUTHWARD said he must certainly concur with the gentleman from Virginia in astonishment at this extraordinary provision, and at the manner in which the appropriation was defended by the Senator from New York. What, he (Mr. S.) would ask, was the character of this appropriation? It amounted to the enormous sum of three millions of dollars, and was to be put into the hands of the President to be expended by him at his own good will and pleasure. It was without limitation or restriction—without specification of objects—or any designation of purpose whatever. To be sure, there was added to the provision an idea of this sort, that the money should not be expended unless the public necessity should call for it. Who was to judge of the public necessity for the expenditure of this money? The Executive alone. Had we arrived at that period in our history when the Executive was to determine when or how the public money was to be expended in cases of danger or otherwise? Had we progressed to that period when the Congress of the United States, the guardians of the people's treasure, were not to determine as to that matter, but the power was to rest in the hands of the Chief Magistrate only? There was, however, in regard to this subject, a higher question to be decided. The professed object of the appropriation was to defend the country in case of war. And what was the power put into the hands of the Executive by that very appropriation? Why, it was the power of making war. Congress told him to increase the navy, the army, and the fortifications, if he pleased. He (Mr. S.) would say, give him that power, and there would remain no obstacle to prevent him from plunging this country into a war. He was to be guided alone by what he deemed right or wrong! He (Mr. S.) had never heard of such a proposition as this before. He confessed that he could hardly speak of it with respect.

Mr. WRIGHT observed that it was not his intention to say anything which would lead to a protracted debate, nor was it his purpose to excite the feelings of any gentleman. There were two modes of debating a proposition. The first was, by poetic license; and the other was, by debating a proposition as it is. The honorable Senator from New Jersey had told the Senate, in his usual impassioned manner, that this was an appropriation of three millions, without specification or object. He had no

answer to make to the assertion, but what was derived from hearing the amendment read by the Secretary of the Senate. The Senator, in his precipitancy, remarked that he (Mr. W.) had said that the money was not to be expended. The gentleman was mistaken; for he (Mr. W.) said no such thing, but observed that he believed it would not be called for; though no man could tell what might be the issue of our relations with France. And they all knew what this appropriation was to be made for.

Mr. CLAY said that the proposition was to appropriate three millions of dollars for the general purpose of increasing the naval and military service of this country, without any specification whatever of objects. In principle, therefore, the honorable gentleman from New York must admit it was the same, whether the amount to be appropriated was three millions, fifty, or a hundred millions. Now, according to the Constitution of the United States, Congress possessed the power to raise armies and create a navy; and under the practice of the Government from the commencement of it down to this time, in no instance had an army been raised without a specification of the amount of it, the rank and file of which it should consist, the officers who should command, &c. And he believed that, since the origin of this Government, there had been no increase or augmentation of the navy, without a specification of the number and size of the ships that should be in commission, with every other particular. Now, for what objects was this appropriation intended? It was to be applied to the increase of the naval and military service, including fortifications. In other words, to authorize the President to increase the army, to increase the navy, to make new fortifications not authorized by careful surveys, and sanctioned by the estimates agreed to by Congress afterwards.

Mr. BUCHANAN said he was astonished at the remarks which had been made by gentlemen on the subject of this appropriation. The most fearful apprehensions had been expressed; the destruction of our liberties had been predicted, if we should grant to the President \$3,000,000 of dollars to defend the country, in case it should become necessary to expend it for that purpose before the next meeting of Congress. For his part, he could realize no such dangers.

Gentlemen have said, and have said truly, that the Constitution of the United States has conferred upon Congress, and Congress alone, the power of declaring war. When they go further, and state that this appropriation will enable the Executive to make war upon France, without the consent of Congress, they are, in my humble judgment, entirely mistaken.

Sir, said Mr. B., what is the true nature, and what are the legitimate objects, of this appropriation? Do we not know that, although the President cannot make offensive war against France, France may make war upon us; and, that we may thus be involved in hostilities

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[SENATE.]

in spite of ourselves, before the next meeting of Congress? If the Chamber of Deputies should determine to violate the treaty, and to fix an enduring stigma upon the public faith of the French nation, is it certain that France may not proceed a step further, and strike the first blow? Mr. Livingston himself, in the correspondence which had been communicated to us by the President, has expressed serious apprehensions that this may be the result. France may consider war, eventually, to be inevitable; she may, and I trust does, believe that we have determined not to submit patiently to her violation of a solemn treaty, and thus abandon the just claims of our injured citizens; and, taking advantage of our unprepared condition, she may commence hostilities herself. The first blow is often half the battle between nations as well as individuals. Have we any security that such will not be her conduct? Have we any reason to believe she will wait until we are ready? Her past history forbids us to indulge too securely in any such belief. If she should adopt this course, in what a fearful condition shall we place the country if we adjourn without making this appropriation? The Senate will observe that not a dollar of this money can be drawn from the treasury, unless it shall become necessary for the defence of the country, prior to the next meeting of Congress.

Another circumstance which renders this appropriation indispensable is, that Congress cannot possibly be convened by the President much before their usual time of meeting. There are, I believe, nine States in this Union who have not yet elected their Representatives to the next Congress. Some of these elections will take place in April, and others not till August, and even October. We have now arrived almost at the last hour of our political existence; and shall we leave the country wholly defenceless until the meeting of the next Congress? Gentlemen have warned us of the fearful responsibility which we should incur in making this appropriation. Sir, said Mr. B., I warn them that the responsibility will be still more dreadful, should we refuse it. In that event, what will be our condition should we be attacked by France? Our seacoast from Georgia to Maine will be exposed to the incursions of the enemy; our cities may be plundered and burnt; the national character may be disgraced; and all this whilst we have an overflowing treasury. When I view the consequences which may possibly flow from our refusal to make this grant, I repeat that the responsibility of withholding it may become truly dreadful. No portion of it shall rest upon my shoulders.

Mr. PRESTON expressed his surprise at the extraordinary amendment which had been made to the bill by the House of Representatives, at that late hour of the session, when the waning sands of their political existence, as a body, were nearly run out. They were called upon to confer a most tremendous power, by placing at the disposal of the Chief Magistrate

of the Union the sum of \$3,000,000! He was already appointed commander of the army and navy of the United States, and now the Senate was asked to confer upon him the power to raise armies and create navies, and that, too, on the very last night of the session, almost without time for a moment's deliberation. They were in fact and in truth to give him power over the purse and the sword, and consequently over the liberties of the country. He meant to express no distrust in the Chief Magistrate; but, he would ask, was it proper that any Congress should unconstitutionally surrender the powers committed to their hands?

Mr. WEBSTER thought it impossible that the Senate could hesitate about the rejection of this most extraordinary and objectionable proposition, and he hoped the decision would be made without further delay. It was now nine o'clock at night, and further discussion could have no effect but to defeat other important business. He therefore entreated the Senate to desist from debate, and proceed to vote.

Mr. CUTHBERT would ask, what had been done by the House of Representatives? What did it seek by its amendment? Why, merely to provide the proper means that the country should be put in a state of defence, in the possibility that we might be attacked by that power with whom we had had some differences. What gentleman was there on that floor who would not reproach himself, (supposing the appropriation not to be made,) if such an event were to happen as he (Mr. C.) had imagined? Who would not regret that the navy had not been increased, when they saw our coasts blockaded, our waters covered by the enemy's ships, and our beautiful cities battered down? What, then, was there so extraordinary in the terms of the amendment? For his own part he thought it highly proper that the appropriation should be made, that the President should have the means necessary to put the country in that state which circumstances required.

The question was taken on disagreeing to the amendment of the House, and was decided in the affirmative, as follows:

YEAS.—Messrs. Bell, Bibb, Calhoun, Clay, Clayton, Ewing, Frelinghuysen, Goldsborough, Hendricks, Kent, Knight, Leigh, Mangum, Moore, Naudain, Poindexter, Porter, Prentiss, Preston, Robbins, Silsbee, Smith, Southard, Swift, Tomlinson, Tyler, Waggaman, Webster, White—29.

NAYS.—Messrs. Benton, Black, Brown, Buchanan, Cuthbert, Grundy, Hill, Kane, King of Alabama, King of Georgia, Linn, McKean, Morris, Robinson, Ruggles, Shepley, Tallmadge, Tipton, Wright—19.

So the amendment was rejected.

Mr. OLAYTON moved that the Senate insist on their amendment; which motion was agreed to, and the bill was then returned to the other House.

On motion of Mr. OLAYTON, the Senate proceeded to the consideration of Executive business, and spent some time with closed doors.

[When the doors were opened, and the

reporters entered the gallery, they found that a message had been received from the House by the Senate, while in secret session, announcing that the House insisted on its amendment, proposing to place three millions at the disposal of the President. Before it was known that the doors had been opened, it appeared that this message of the House had been taken up, that Mr. WEBSTER had moved that the Senate adhere to its disagreement to the appropriation, and had followed his motion with a speech of uncommon animation and earnestness in its support. This speech he was just concluding when the reporters re-entered the gallery.]

Mr. KING, of Alabama, said he very much regretted that the Senator from Massachusetts should have made such a motion; it had seldom or never been resorted to until other and more gentle means had failed to produce a unity of action between the two Houses. At this stage of the proceeding it would be considered (and justly) harsh in its character; and, he had no doubt, if sanctioned by the Senate, would greatly exasperate the other House, and probably endanger the passage of the bill altogether. Are gentlemen, said Mr. K., prepared for this? Will they, at this particular juncture, in the present condition of things, take upon themselves such a fearful responsibility as the rejection of this bill might involve? For himself, if your forts are to be left unarmed, your ships unrepaid and out of commission, and your whole seacoast exposed without defences of any kind, the responsibility should not rest upon his shoulders. It is as well, said Mr. K., to speak plainly on this subject. Our position with regard to France was known to all who heard him to be of such a character as would not, in his opinion, justify prudent men, men who look to the preservation of the rights and the honor of the nation, in withholding the means, the most ample means, to maintain those rights and preserve unimpaired that honor.

During the whole period of the administrations of General Washington and the elder Adams, all appropriations were general, applying a gross sum for the expenditure of the different departments of the Government, under the direction of the President; and it was not till Mr. Jefferson came into office, that, at his recommendation, specific appropriations were adopted. Was the constitution violated, broken down, and destroyed, under the administration of the Father of his Country? Or did the fortress to which the Senator from Massachusetts, on this occasion, clings so fondly, tumble into ruin, when millions were placed in the hands of Mr. Jefferson himself, to be disposed of for a designated object, but, in every thing else, subject to his unlimited discretion? No, said Mr. K., our liberties remained unimpaired; and, he trusted in God, would so remain for centuries yet to come. He put it to Senators to say whether, in a possible contingency, which all would understand, our forts should not be armed, or ships put in commission? None

will venture to gainsay it. Yet the extent to which such armament should be carried must, from the very necessity of the case, be left to the sound discretion of the President. From the position he occupies, no one can be so competent to form a correct judgment, and he could not, if he would, apply the money to other objects than the defences of the country.

Mr. POINDEXTER said he should vote to adhere. He was not for temporizing with such a proposition as that under consideration. For five years he had stood on the floor of that Senate to defend, to the best of his poor ability and judgment, that glorious constitution which had been handed down to them by the wise and enlightened patriots who framed it. And he thanked God that the last vote he should perhaps ever give here, would be recorded in defence of the charter of our liberties—the Constitution of the United States. Ever since he had had the honor of a seat in that Senate, he had seen power progressively increasing, marching on, step by step, approximating to supreme authority in one hand. Who had ever heard of such a monstrous proposition? It was without precedent, was never before heard of; and he (Mr. P.) would venture to say that, within six months, the Chief Magistrate could plunge this country into a state of hostility with France. That he would do so, he (Mr. P.) did not know, for he could not say what his action would be; but most unquestionably he would have the power to bring upon the country such a calamity, if this appropriation were to pass the Senate.

Mr. LEIGH said he was really at a loss to perceive how this indefinite appropriation of millions was to be justified by any thing that had been done during the administration of Mr. Jefferson. Would the Senator from Alabama (Mr. KING) be good enough to hint to him the occasion on which millions had been placed by Congress at the uncontrolled disposal of President Jefferson?

[Mr. KING explained that a very large appropriation was made during the administration of Mr. Jefferson, to enable him to take such measures as he might deem necessary in order to secure Florida; and secret agents were appointed to carry the object into effect.]

Mr. LEIGH resumed: he remembered very well that there was made, in secret session, an appropriation of \$2,000,000, in order to enable Mr. Jefferson to open a negotiation for the purchase of Florida; and he, instead of making the purchase at that time, negotiated the purchase of Louisiana, without employing a dollar of the money thus appropriated. That was the case to which he (Mr. L.) supposed the gentleman alluded. He would take upon himself to affirm that no instance could be found, either during the administration of Mr. Jefferson or of any other President, of an appropriation having been made which bore the least resemblance to this; but he did not rise for the purpose of making that single remark—his

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Fortification Bill—Extra Appropriation.

[SENATE.]

object being to make two others. The first one was, that the argument addressed to that Senate by the Senator from Alabama was precisely, in so many words, the argument that was once addressed to the Senate and people of Rome, as a reason for the appointment of a Dictator, namely: that, in times of excitement and difficulty, it was absolutely necessary that the whole powers of the Government should be placed in the hands of one man! Give the Chief Magistrate this appropriation, (said Mr. L.) and you establish the office of Dictator.

Mr. WRIGHT hoped the Senate would not adhere to their disagreement. He felt himself bound to state that he did not know but that he had heard of the constitution being broken down, destroyed, and the liberties of the country overthrown, so frequently in that Senate, as to render him callous to the real state of things. For the last sixteen months those fears and forebodings had been so strongly and often expressed on that floor, that they had been forcibly impressed upon him; yet, he must say that he was incapable of perceiving a particle of their effects. No evidence had he seen of them; nor could he now partake of the alarm which some gentlemen pretended to feel, when he saw that the asseverations made at this time came from the same source. What had the Senate now before it? A bill from the House of Representatives—from the immediate representatives of the people, proposing to provide for the defence of the country. What had honorable Senators debated? The danger of executive power. Were, he would ask, those representatives sitting at the other end of that Capitol the most likely to contribute to that danger? Was that the source from which Senators were compelled to look for danger in that respect? Such an idea had never occurred to his mind. Under what circumstances did the members of the other body present the appropriation? He believed, and he spoke on good authority, that our minister at the court of France had informed this Government that it was problematical that the French might strike the first blow against us, by detaining our fleet now in the Mediterranean. Congress were on the point of adjourning; and, being in possession of such advices from our minister, they had thought proper to act as they had done in regard to this appropriation. And he would inquire, by what notion it was that the Senate were to be impressed with the danger of putting this power into the hands of the Executive—that our liberties were to be destroyed and the constitution trampled upon? Ay, in making an appropriation for the defence and safety of the country from a foreign enemy?

Mr. WEBSTER said he had heard the gentleman from New York make an allusion to a particular part of the country, during the war with England, as being more fearful of domestic than of foreign enemies. It was necessary for

him at once to come to an understanding with the honorable member. He desired to know whether he meant any thing by those remarks. He felt that his public situation entitled him to a direct answer; and he asked the honorable member, therefore, to say, explicitly, whether he had intended to insinuate, in any manner or degree, that his (Mr. W.'s) conduct, during that war, manifested any want of disposition to repel the public enemy?

Mr. WRIGHT said, in reply, that it was not till after that period that he had become acquainted with the Senator from Massachusetts, in his public character, and therefore could have had no such intention.

The question was taken on adhering, and decided as follows:

YEAS.—Messrs. Bell, Bibb, Calhoun, Clay, Clayton, Ewing, Frelinghuysen, Goldsborough, Hendricks, Kent, Knight, Leigh, Mangum, Moore, Naudain, Poindexter, Porter, Prentiss, Preston, Robbins, Silsbee, Smith, Southard, Swift, Tomlinson, Tyler, Waggaman, Webster, White—29.

NAYS.—Messrs. Benton, Brown, Buchanan, Cuthbert, Grundy, Hill, Kane, King of Alabama, King of Georgia, Linn, McKean, Ruggles, Robinson, Shepley, Tallmadge, Tipton, Wright—17.

The House further insisted, and asked a conference; which being immediately granted by the Senate, Messrs. WEBSTER, FRELINGHUYSEN, and WRIGHT, were appointed conferees on the part of the Senate.

Shortly afterwards, Mr. WEBSTER reported that the committee of conference had agreed, in lieu of the amendment of the House, to recommend the adoption of the following appropriations:

"As an additional appropriation for arming the fortifications of the United States, three hundred thousand dollars.

"As an additional appropriation for the repairs and equipment of the ships of war of the United States, five hundred thousand dollars."

The House having possession of the bill and papers, the Senate could not act on the report until it heard from the other House.

After waiting some time, on motion of Mr. WEBSTER, the Senate adopted the following resolution:

Resolved, That a message be sent to the honorable the House of Representatives, respectfully to remind the House of the report of the committee of conference appointed on the disagreeing votes of the two Houses on the amendment of the House to the amendment of the Senate to the bill respecting the fortifications of the United States.

The Senate then waited still a good while longer, and not hearing, sent still another message, informing the House that they, the Senate, had no further business before them. No answer coming to this message, the Senate, after waiting a considerable time longer, and hearing nothing from the bill, adjourned, *sine die*.

TWENTY-THIRD CONGRESS.—SECOND SESSION.

PROCEEDINGS AND DEBATES

THE HOUSE OF REPRESENTATIVES.

MONDAY, December 1, 1834.

The House of Representatives assembled this morning. The honorable JOHN BELL, Speaker, took the chair and called the House to order.

The roll of the House was called by the Clerk in the order of States, upon which it appeared that there were 188 members present. The names of the new members were then called; when the following gentlemen answered to their names, were qualified, and took their seats, viz.:

Stephen C. Phillips, from Massachusetts; Ebenezer Jackson, Phineas Miner, and Joseph Trumbull, from Connecticut; Charles G. Ferris, and John J. Morgan, from New York; John Robertson, from Virginia; Robert P. Letcher, from Kentucky; Daniel Kilgore, from Ohio; Henry Johnson, from Louisiana; William L. May, and John Reynolds from Illinois.

TUESDAY, December 2.

HENRY F. JAMES, elected a Representative from the State of Vermont, to supply the vacancy occasioned by the death of the honorable Benjamin F. Deming, appeared, and was qualified.

Mr. McKINLEY, from the joint committee (consisting, on the part of the House, of Messrs. McKINLEY and LANSING) appointed to wait on the President of the United States, and inform him that the two Houses were organized, and ready to receive from him any communication which he might have to make, reported that the committee had discharged that duty, and had received for answer that the President would send a Message in writing to each House of Congress this day at 12 o'clock.

The Message was then received from the President of the United States. [See Senate proceedings of this date.

On motion of Mr. CONNOR, it was ordered that the Message be committed to the Committee of the Whole House on the state of the Union, and that ten thousand copies of the Message, and the documents accompanying it, be printed for the use of the House.

WEDNESDAY, December 3.

Death of Mr. Slade.

Mr. CASEY, of Illinois, rose, he said, to offer a resolution to the House, expressive of the respect of the members of this body for the memory of the honorable CHARLES SLADE, late one of the Representatives from Illinois on this floor. In submitting the resolution, which I now have the honor to do, for the consideration of the House, it is not my purpose, said Mr. C., to trespass on its time or attention by a labored eulogy on the character of my late distinguished colleague and much esteemed friend, now no more. He died near Vincennes in Indiana, of that scourge of nations, cholera, on his way home from attending the last session of Congress. His amiable manners, his mild and benevolent disposition, his sound sense, and untiring devotion to his legislative duties while here, have made a lasting impression on all who knew him. He had a heart that responded to every advance of sympathy and benevolence, a heart formed for the most ardent attachments. Open and undisguised, the prominent traits of his character were always before the world. But suffice it to say that, though the dust of CHARLES SLADE now sleeps with that of his fathers, he still lives in the hearts of hundreds and thousands of his countrymen, who, with sincerity, deplore his death. I therefore respectfully ask the members of this House to concur with me in this humble, this last tribute of respect to his memory. Mr.

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Presents from Foreign Powers.

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O. concluded by offering the following resolution, which was agreed to, *nem. con.*

Resolved, unanimously, That the members of this House will testify their respect for the memory of CHARLES SLADE, deceased, late a member of this House from the State of Illinois, by wearing crape on the left arm for one month.

Death of Mr. Deming.

Mr. JAMES, of Vermont, rose and said it had become his melancholy duty to announce to the House the death, since the last session, of another of its number. The honorable BENJAMIN F. DEMING, of Vermont, departed this life, said Mr. J., on the 11th of July last, on his way from this place to his home in that State. The deceased had been but a short time a member of this body, but long had held a distinguished place in the councils of his native State; and was there, and wherever else known, universally esteemed and beloved as an enlightened and honest statesman, as an amiable citizen, as a Christian of pure and unsullied morals. However flattering it may be to hold a seat on the floor of this House, to me it is deeply affecting that the one I have the honor of occupying has been made vacant by the death of an able legislator—by the removal from his family of an affectionate husband, a kind parent, and from me a long and most valued personal friend! But if we be permitted to gather hope from the public and private walk, the rectitude of moral character, the daily Christian deportment of man, few, if any, have left more comforting, more enduring evidences, than the deceased, that he has now a crown of immortality, an eternal rest. In testimony of our respect, I move the following resolution.

Mr. J. then submitted the following resolution, which was adopted, *nem. con.*

Resolved, unanimously, That the members of this House will testify their respect for the memory of BENJAMIN F. DEMING, deceased, late of the State of Vermont, by wearing crape on the left arm for one month.

THURSDAY, December 4.

Annual Treasury Report.

The SPEAKER laid before the House the annual report of the Secretary of the Treasury on the state of the finances; which, on motion of Mr. POLK, was laid on the table, and 10,000 copies ordered to be printed.

Sundry other communications were received from the Secretary of the Treasury; which were laid on the table, and ordered to be printed.

MONDAY, December 8.

Expenditures at Navy Point, N. Y.

The following resolution, submitted on Thursday, by Mr. WARDWELL, was taken up:

Resolved, That the Secretary of the Navy be directed to report to this House the amount expended in erecting the ship-house at Navy Point, in the county of Jefferson, and State of New York, and the expense of keeping the same in repair. Also, the like information in relation to the vessel built and lately sold at Storr's Harbor, in said county, and the amount of compensation allowed to the officer or officers, person or persons, who have from time to time had charge of the same. Also the reasons, if any exist, for the further preservation of the vessel and ship-house at Navy Point. Also, that he report the amount heretofore paid for the use and occupation of the land now belonging to the heirs of Henry Eckford, deceased, at Navy Point and Storr's Harbor, on which the vessels New Orleans and Chippewa were built, and also the terms of any contract which may have been made with the Government, or its authorized agent, for the use and occupation of such land.

Mr. WHITE moved the following amendment, which was accepted by Mr. WARDWELL; and, thus amended, the resolution was agreed to, viz:

"And any other information in possession of the Department relative thereto."

TUESDAY, December 9.

Presents from Foreign Powers.

Mr. MASON, of Virginia, rose to remind the House that, at the last session, a Message was received from the President of the United States, submitting to the disposition of Congress certain presents from the Emperor of Morocco, (a lion and two horses.) The Committee on Foreign Affairs, to which the Message was referred, recommended that the presents should be sold, and the proceeds placed in the treasury of the United States. But the Executive thought he was not sufficiently justified without an act of Congress, for taking this course. It was desirable that the subject should be disposed of, and the contingent fund relieved from the expense now charged upon it. He moved a recommitment of the Message to the Committee on Foreign Relations.

Mr. OLATTON moved to amend the motion so as to instruct the committee also to consider the propriety of disposing, in some manner, of the presents already in the State Department.

The amendment was accepted by the mover, and the motion, as modified, agreed to in the following form:

Resolved, That the Message of the President of the United States on the subject of a present received by the consul of the United States at Tangier from the Emperor of Morocco, made to this House at the last session of Congress, be recommitted to the Committee on Foreign Affairs, with instructions to report a bill directing the sale of the lion and horses presented; and such application of the proceeds of such sale as shall be deemed most appropriate. Also, to inquire into the expediency of making disposition of such other presents as have been made to officers of the Government, and deposited in the Secretary of State's office, as being presented contrary to the constitution.

General Lafayette.

Mr. HUBBARD called the attention of the House to the proceedings at the last session, upon the resolution then reported from a joint committee of the two Houses, for the adoption of suitable measures for paying proper respect to the memory of General Lafayette, and submitted the following resolution to carry into effect the order adopted by the House at the late session :

Resolved, That a committee be appointed on the part of this House, to join such committee as may be appointed on the part of the Senate, to consider and report the arrangements necessary to be adopted, in order to carry into effect the last resolution reported on the 24th June, 1834, by the joint committee appointed at the last session of Congress, on the occasion of the death of General Lafayette.

The resolution was agreed to, and the committee ordered to consist of five members. Messrs. HUBBARD, LINCOLN, WHITE, ALLAN of Virginia, and MARSHALL, were announced as the committee.

WEDNESDAY, December 10.

Exploring Expedition.

Among the petitions and memorials presented to-day, was one by Mr. PEARCE, of Rhode Island, of John N. Reynolds, lately returned from a voyage of exploration in the Pacific ocean and on the North-west coast, praying that an expedition may be fitted out to survey the islands and reefs in that ocean and on that coast. The petition was recommended by both branches of the Legislature of Rhode Island; and Mr. P. stated that the Legislatures of several other States would join in the prayer of the memorial, as would the merchants and chambers of commerce in the principal cities of the Union. To show the importance of the object in view, Mr. P. stated that there were now engaged in the whale fishery 132,000 tons of shipping; that there were employed 10,000 seamen; and that the business direct and indirect employed 170,000 tons of shipping, and more than 12,000 seamen; that more than one-tenth part of our whole navigation was engaged in it; and the capital invested was \$12,000,000. He further stated that the annual loss of property upon the islands and reefs not laid down upon any chart, was fully equal to the expense of the expedition and survey requested.

Election of a Chaplain.

The House proceeded to the election of a Chaplain; and

The Rev. Mr. Smith, having a majority of the whole number of votes given, was declared to be duly elected as Chaplain, on the part of this House, for the present session,

THURSDAY, December 11.

French Relations.

The following resolution, submitted yesterday, by Mr. FOSTER, was taken up:

Resolved, That the President of the United States be requested to communicate to this House (if not in his opinion incompatible with the public interest) any communication or correspondence which may have taken place between our minister at Paris and the French Government, or between the minister from France to this Government and the Secretary of State, on the subject of the refusal of the French Government to make provision for the execution of the treaty concluded between the United States and France on the 4th of July, 1831.

Mr. FOSTER said that he understood the Committee on Foreign Affairs had recently received a communication from the Secretary of State on the subject embraced in the resolution, and that additional information was expected by that committee. He would, therefore, move to lay the resolution on the table for the present; which was agreed to.

Public Lands.

Mr. CLAY, by consent, moved the following resolution:

Resolved, That the Secretary of the Treasury be directed to report to this House—

1st. What quantity of public land has been offered at public sale in the several States and Territories.

2d. What portion remains unsold and subject to private entry in the States and Territories, respectively, and how long the same has been so subject in each.

3d. What portion of the public land offered, and not sold at auction, has since been bought at private sale.

4th. What quantity of public land has been sold, and for what sum, in each year, from the year 1822, inclusive.

5th. And the number of acres in each State and Territory, the number sold in each, and the amount received therefor.

Imprisonment for Debt.

Mr. JOHNSON, of Kentucky, submitted the following resolution:

Resolved, That the Committee on the District of Columbia be instructed to inquire into the expediency of abolishing imprisonment for debt.

Public Lands.

Mr. McKINLEY offered the following, which he wished printed, and postponed for a week:

Resolved, That the Committee on Public Lands be instructed to bring in a bill to reduce the price of the public lands to seventy-five cents an acre; and all lands which have been offered for sale and remain unsold for more than five years, and less than ten years, to fifty cents an acre; and all lands which have been offered for sale and remain unsold for more than ten and less than fifteen years, to twenty-five cents an acre; and all lands which have been offered for sale and remain unsold for more than fifteen, and less

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Territory of Wisconsin.

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than twenty years, to twelve and a half cents an acre; and all lands which have been offered for sale and remain unsold for more than twenty, and less than twenty-five years, to six and one-fourth cents an acre; and all lands which have been offered for sale and remain unsold for more than twenty-five years, to become the property of the States in which they lie, respectively; and all persons who reside on the public lands, and shall have cultivated any portion thereof, for one or more years, to have the right of pre-emption of one quarter section at the price above fixed upon the class to which it may belong in the foregoing scale of graduation.

FRIDAY, December 12.

Burning of the Treasury Building.

The following Message was received from the President of the United States, by the hands of Mr. A. J. Donelson, his private Secretary:

WASHINGTON, December 12, 1834.

To the House of Representatives:

In compliance with the resolution of the House of Representatives of the 10th instant, calling for any information which the President may possess respecting the burning of the building occupied by the Treasury Department, in the year 1833, I transmit herewith the papers containing the inquiry into the cause of that disaster, which was directed and made soon after its occurrence.

Accompanying this inquiry, I also transmit a particular report from Mr. McLane, who was then Secretary of the Treasury, stating all the facts relating to the subject which were within the knowledge of the officers of the Department, and such losses of records and papers as were ascertained to have been sustained.

ANDREW JACKSON.

On motion of Mr. POLK, the Message and documents were referred to the Committee on Public Buildings, and ordered to be printed.

Cumberland Road.

The following resolution, submitted yesterday, by Mr. McKENNA, was taken up:

Resolved, That the Secretary of War be directed to transmit to this House any communication he may have received from the commissioners appointed by the States of Maryland, Pennsylvania, and Virginia, to receive portions of the Cumberland road within the limits of those States, respectively, and to erect toll-gates thereon; and to furnish an estimate of the amount of money which may be necessary to complete the repairs of the said road, agreeably to the requisition of the laws of said States, which have received the assent of Congress. Also, that he inform the House what is the condition of the masonry on the road, how many inches of metal have been put on that part of it which has been located anew under the act of Congress, and upon that of it which lies between the Monongahela and Ohio rivers. And also what depth of metal is, in his opinion, necessary to make a permanent and substantial road upon the plan which has been adopted in its repair by the Department.

Mr. McKENNA submitted the following as a modification of his resolution; which was

agreed to; and thus modified, the resolution was adopted:

"And also that he furnish this House with a copy of the instructions which were given by the Department to the superintendent, as to the manner in which the repairs upon that road should be made."

MONDAY, December 15.

General Lafayette.

The SPEAKER laid before the House the following Message from the President of the United States:

WASHINGTON, December 10, 1834.

To the House of Representatives of the United States:

The joint resolutions of Congress, unanimously expressing their sensibility on the intelligence of the death of General Lafayette, were communicated, in compliance with their will, to George Washington Lafayette, and the other members of the family of that illustrious man. By their request, I now present the heartfelt acknowledgments of the surviving descendants of our beloved friend, for that highly-valued proof of the sympathy of the United States.

ANDREW JACKSON.

On motion of Mr. E. EVERETT, the Message and accompanying documents were referred to the Committee on Foreign Relations.

TUESDAY, December 23.

General Lafayette.

Mr. HUBBARD, from the select joint committee appointed to consider and report what measures were necessary to give effect to the resolutions adopted at the last session, for paying suitable honors to the memory of General Lafayette, reported certain joint resolutions, (for which see Senate debates of this date;) which were twice read, and ordered to be engrossed for a third reading.

WEDNESDAY, December 24.

Territory of Wisconsin.

The SPEAKER presented the following memorial, being the same as that presented by Mr. LYON, of Michigan:

EXECUTIVE OFFICE,
DETROIT, December 12 1834.

SIR: In obedience to a request of the Legislative Council of the Territory of Michigan, I have the honor to transmit to you a memorial of that body, praying the establishment of a separate territorial government for the district of country west of Lake Michigan.

I have the honor to be, very respectfully, your most obedient servant,

STEVENS T. MASON.

HON. JOHN BELL,
Speaker of the H. R. United States.

To the Senate and House of Representatives of the United States in Congress assembled:

At an extra session of the Legislative Council of the Territory of Michigan, held on the first Monday of September last, pursuant to an act of Congress of the 30th of June, 1834, an act was passed to provide for the taking a census of the inhabitants of that part of the Territory of Michigan which is situated to the eastward of the Mississippi River. This duty has been performed by the sheriffs of the several counties, under oath, and nearly in the same manner as that which has been heretofore adopted by the general Government to obtain an enumeration of the citizens of the United States. The population is found to amount to ninety-two thousand six hundred and seventy-three souls. The counties situated upon the peninsula, and those lying north and west of Lake Michigan, contain the following numbers:

Wayne,	16,638	Jackson,	1,865
Washtenaw,	14,920	Berrien,	1,787
Oakland,	13,844	Calhoun,	1,714
Monroe,	8,542	Branch,	764
Lenawee,	7,911	Michillimacine,	891
Macomb,	6,055	Chippewa,	526
Cass,	3,280	Brown,	1,957
St. Joseph,	3,168	Crawford,	810
Kalamazoo,	3,124	Iowa,	2,683
St. Clair,	2,244		

In this enumeration, the inhabitants of the country which is situated between the Mississippi and Missouri rivers, and which was, for the purpose only of temporary government, attached to the Territory of Michigan at the last session of Congress, are not embraced. They may be justly estimated at from five to eight thousand souls. The population of Western Michigan (now generally known as the Wisconsin Territory) may be stated at from twelve to fifteen thousand. And we would again respectfully ask of your honorable body to hear their complaints, and to grant to them speedily the relief for which they pray. The country inhabited by that people has been subjected, at various times, to different Governments; but, on all occasions, the promise seems to have been held out to them, that their subjection to those Governments should be but temporary. So remote, indeed, have been the seats of those Governments, that it is believed that neither the laws of the United States, nor of any Territory, actually had force west of Lake Michigan, until after the year 1820. About that time, a justice of the peace or notary public might be seen claiming and exercising his office there under a commission from the King of France.

The inhabitants between Lake Michigan and the Mississippi have almost every year, since their subjection to the Government of Michigan in the year 1818, complained to Congress of the great evils under which they were suffering in consequence of this connection. They are separated from the great majority of the inhabitants of the Territory by one of the largest lakes upon this continent; and it must obviously be very difficult, if not impracticable, to communicate with them during one-half of the year. Their pursuits in life are also as widely different as their habitations are distant. It is supposed that a very large proportion of the country which lies between Lake Superior, Green Bay, and the Fox, Wisconsin, and Mississippi rivers, must continue for many years, as it now is, the hunting grounds of uncivilized Indian tribes.

South of the Wisconsin River, and within this Territory, and also in the counties of Dubuque and Des Moines, west of the Mississippi, are situated the very extensive and valuable lead mines of the United States. The miners are the immediate tenants of the Government, pursuing a very laborious and hazardous business, and paying their rent to it as to a landlord. It is presumed they are, for these reasons, entitled to its special attention and protection. They compose more than two-thirds of the population of that part of the Territory, and they reside upwards of six hundred miles (some as much as nine hundred miles) from the seat of territorial Government. The judiciary system in that section of the Territory, likewise, is so weak and inefficient, that the laws afford little or no protection to the virtuous, nor does their prompt and energetic administration deter the vicious. It is feared by that people that these, and even greater evils are about to be entailed upon them and their country, for ever, by the formation of a State Government by the eighty-seven thousand two hundred and seventy-three people inhabiting the peninsula of Michigan, and the counties north of the peninsula, for the whole of the Territory which lies north of the line drawn east through the southerly bend of Lake Michigan.

It is to this unnatural union, so prejudicial to the best interests of the inhabitants of Western Michigan, and destructive to their rights as American citizens, your memorialists would respectfully call the attention of your honorable body; and they do respectfully ask, on behalf of the citizens of the whole Territory, that Congress will at its present session, establish a territorial Government for the citizens inhabiting the Territory lying west of a line drawn through the middle of Lake Michigan to the northern extremity, and thence north to the boundary line of the United States.

Your memorialists respectfully refer to the act to provide for taking a census of the inhabitants of Michigan, passed by the Council, September 6, 1834, together with the aggregate returns of the census taken under the said act, copies of which said documents, duly certified by the Secretary of the Territory, are herewith presented to your honorable body.

Resolved, That his excellency the acting Governor be, and he is hereby, requested to transmit copies of the preceding memorial to the President of the Senate, the Speaker of the House of Representatives, and to the Delegate in Congress from this Territory.

JOHN McDONELL,

President of the Legislative Council.

JOHN NORVELL, *Secretary.*

COUNCIL CHAMBER,

DETROIT, December 12, 1834.

The memorial was referred to the Committee on the Territories.

Memory of Lafayette.

The joint resolution yesterday reported by Mr. HUBBARD from the joint committee on the subject of the measures to be taken in honor of the memory of Lafayette, was passed, and sent to the Senate for concurrence.

North-eastern Boundary.

The following resolution, offered yesterday

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by Mr. LINCOLN, of Massachusetts, was taken up for consideration :

Resolved, That the President of the United States be requested to lay before this House (if in his opinion it is not incompatible with the public interest) any communications which may have been had between the Government of the United States and that of Great Britain, since the rejection by the former of the advisory opinion of the King of the Netherlands, in reference to the establishment and final settlement of the north-eastern boundary of the United States, heretofore in controversy between the two Governments.

And that he also be requested to communicate any information which he may possess of the exercise of practical jurisdiction, by the authorities of the British province of New Brunswick, over the disputed territory, within the limits of the State of Maine, according to the true line of boundary as claimed by the United States, and especially upon that part of the territory which has been incorporated by the Government of Maine into the town of Madawaska, together with such representations and correspondence (if any) as has been had by the Executive of that State with the Government of the United States, on the subject.

SATURDAY, December 27.

North-eastern Boundary.

The House resumed the consideration of the resolutions offered by Mr. LINCOLN, of Massachusetts; and the resolutions were adopted—yeas 87, noes 77.

United States Branch Drafts.

The SPEAKER laid before the House the following letter from the Secretary of the Treasury :

TREASURY DEPARTMENT,
December 26, 1834.

SIR : In obedience to the first clause of the resolution of the House of Representatives passed on the 11th instant, directing the Secretary of the Treasury "to communicate to the House of Representatives, as soon as practicable, copies of the correspondence, not heretofore communicated, which had taken place between him and the president of the Bank of the United States, on the subject of the bank drafts," &c. I have now the honor to submit a copy of a letter on that subject received from the president of the Bank of the United States on the 28th ultimo, and the reply thereto by this Department on the 24th instant.

In order to make the contents of both more intelligible, and to include all probably embraced by the resolution, I have taken the liberty to precede them by a copy of the Treasury circular, issued by this Department on the 5th ultimo, and to which these letters so frequently refer, with a copy of the communication of that date, transmitting it to the bank.

I have the honor to remain, very respectfully, your obedient servant,

LEVI WOODBURY,
Secretary of the Treasury.

The Hon. the SPEAKER of the
House of Representatives.

Which letter, and the accompanying documents, were laid on the table and directed to be printed.

Mr. HUBBARD said this correspondence was of an important character; he therefore (by consent) moved that 10,000 additional copies be printed; which was agreed to.

French Relations.

The following Message was received from the President of the United States :

To the House of Representatives of the U. S. :

I transmit to the House a report from the Secretary of State, together with the papers relating to the refusal of the French Government to make provision for the execution of the treaty between the United States and France, concluded on the 4th July, 1831, requested by their resolution of the 24th instant.

ANDREW JACKSON.

WASHINGTON, Dec. 27, 1834.

DEPARTMENT OF STATE,
WASHINGTON, Dec. 27, 1834.

The Secretary of State, to whom has been referred the resolution of the House of Representatives of the 24th instant, requesting the President of the United States "to communicate to the House (if not, in his opinion, incompatible with the public interest) any communications or correspondence which may have taken place between our minister at Paris and the French Government, or between the minister from France to this Government and the Secretary of State, on the subject of the refusal of the French Government to make provision for the execution of the treaty concluded between the United States and France on the 4th of July, 1831," has the honor of reporting to the President copies of the papers desired by that resolution.

It will be perceived that no authority was given to either of the chargés d'affaires, who succeeded Mr. Rives, to enter into any correspondence with the French Government in regard to the merits of the convention, or in relation to its execution, except to urge the prompt delivery of the papers stipulated for in the 6th article, and to apprise that Government of the arrangement made for receiving payment of the first instalment.

All which is respectfully submitted.

JOHN FORSYTH.

To the PRESIDENT of the United States.

The Message and documents accompanying it were referred to the Committee on Foreign Affairs, and ordered to be printed, with an extra number of ten thousand copies.

MONDAY, December 29.

Viva Voce Election.

The following resolution, offered on Wednesday last by Mr. REYNOLDS, was taken up for consideration :

Resolved, That hereafter, in all elections made by the House of Representatives, for officers, the votes shall be given *viva voce*, each member in his place naming aloud the person for whom he votes

H. OF R.]

Mrs. Susan Decatur.

[JANUARY, 1835.]

Mexican Boundary Line.

The following resolution, offered on Saturday last by Mr. BYNUM, was taken up for consideration:

Resolved, That the Executive be requested to cause to be laid before this House, as soon as practicable, such information in relation to the relative positions of the province of Texas, one of the United Provinces of the Republic of Mexico, and the Government of the United States of North America, as may be in possession of either of the Departments, not deemed incompatible with the interests of either of the two Governments; also, what progress has been made in distinguishing the boundary lines between this Government and the Republic of Mexico, which were to be run in conformity with the stipulations made and entered into between the Government of Spain and that of the United States, as ratified by the latter in Congress, on the 22d February, 1819. Also, whether if any subsequent relations have been entered into between the commissioners of this and the Government of Mexico, to carry into execution the conditions of the above-mentioned stipulations, posterior to the recognition of the latter Government as an independent Republic.

Mr. BYNUM said he had ascertained that most of the information called for in the resolution had already been communicated to Congress, and he therefore moved to lay it on the table; which was agreed to.

TUESDAY, December 30.

Surveyor General in Illinois.

Mr. CASEY, from the Committee on the Public Lands, reported a bill providing for the establishment of a surveyor general's office in the State of Illinois; which was read twice.

Mr. CASEY stated that the establishment of a separate surveyor general's office for the State of Illinois was a matter of deep interest to the people of that State; he was therefore exceedingly anxious that the bill should be acted upon at the present session of Congress, and hoped that the House would permit the bill to be committed to the Committee of the Whole on the state of the Union; and accordingly made a motion to that effect; which motion was agreed to.

WEDNESDAY, December 31.

General Lafayette.

The SPEAKER announced that, under the joint resolution, the House would be considered as regularly in session, until adjourned in the usual manner, after the delivery of the contemplated eulogy on the life and character of Lafayette.

According to previous arrangement, the Senate, accompanied by the Vice President, the President, the heads of Departments, a portion of the foreign diplomatic corps, the joint com-

mittee of arrangements, and Mr. JOHN QUINCY ADAMS, entered the hall of the House of Representatives at half past 12 o'clock, P. M.

Mr. HUBBARD (the chairman of the committee of arrangements on the part of the House) conducted Mr. ADAMS to the Speaker's chair, from which he rose and delivered an address on the life and character of General Lafayette, which occupied about three hours' time.

When Mr. ADAMS had concluded, the Vice President and Senate retired to their hall, the President of the United States, heads of Departments, &c., &c., withdrew, and the House, on motion, adjourned over to Friday.

FRIDAY, January 2, 1835.

General Lafayette.

The following joint resolution was offered by Mr. HUBBARD:

Resolved by the Senate and House of Representatives, That the thanks of Congress be presented to JOHN QUINCY ADAMS, for the appropriate oration delivered by him on the life and character of General Lafayette, in the Representatives' hall, before both Houses of Congress, on the 31st day of December, 1834, and that he be requested to furnish a copy for publication.

Resolved, That the chairman of the joint committee appointed to make the necessary arrangements to carry into effect the resolution of the last session of this Congress, in relation to the death of General Lafayette, be requested to communicate to Mr. ADAMS the foregoing resolution, receive his answer thereto, and present the same to both Houses of Congress.

The resolution was agreed to, *nem. dia.*

Mr. CAMBRELENGE asked whether this was the proper time to move the printing of an extra number of copies of the eulogy.

Mr. HUBBARD replied, that it was thought proper first to pass the resolution and receive an answer, after which the committee would move the printing of the eulogy, and of an extra number of copies.

SATURDAY, January 3.

Mrs. Susan Decatur.

The bill for the relief of Susan Decatur and others was taken up.

Mr. VINTON moved its postponement to Friday next. He said the bill had, first and last, occupied at least six weeks of the time of the House, and had been four or five times rejected. He thought it time to establish a rule that claims often rejected should yield precedence to other claims on the calendar.

Mr. CAMBRELENGE remarked that the gentleman from Ohio should recollect that this bill, though often rejected, was rejected by small majorities, and merely because gentlemen could not agree as to the mode of distributing the sum allowed to the claimants.

JANUARY, 1835.]

Eulogy on General Lafayette.

[H. OF R.]

The question on the postponement of the bill was decided in the negative—yeas 55.

Mr. GILLET moved to lay the bill on the table, which was determined in the affirmative—ayes 96, noes 90.

MONDAY, January 5.

Defence of Baltimore.

Among the memorials presented this morning was one by Mr. McKIM, from citizens of Baltimore, praying that the fortifications commenced some years since may be completed, &c. On presenting which,

Mr. McKIM said: I am requested to present the memorial of a number of citizens of Baltimore, praying that the forts, recommended by a board of engineers many years since to be erected for the defence of Baltimore, may be commenced, or such other works as may be deemed necessary. Having the honor to represent, in part, the citizens of Baltimore on this floor, I ask leave of the House to say a few words in explanation and support of the memorial. It is, I presume, well known that Baltimore is the emporium of the State of Maryland, and now ranks as the third city in the Union, in size and population. In the late war with Great Britain, her citizens supported the rights of the nation with all their energy; and when a powerful British army, under the command of a successful general, landed at North Point, in 1814, to capture the city, her citizens, both old and young, marched to meet the invading foe. A battle ensued; the commanding general of the enemy was slain, and Baltimore had to deplore the loss of a number of her brave citizens. The enemy retreated, without accomplishing the object for which they came; peace took place shortly after; and the Government appointed a board of engineers to examine and report on such places as might require works of defence. The board reported in 1821, and among others, recommended two works, of the first and second class, to be erected for the defence of Baltimore; the first class to be commenced as soon as possible, and the second at a later period. Thirteen years have passed since this report was made, and, while a great number of the works recommended in the report have been commenced and nearly completed, I regret to state that those mentioned for Baltimore have been entirely passed over. The cause I know not; but the fact is so. Surely the lives and property of the citizens of Baltimore are as much entitled to protection from this Government as those in any other part of the Union. The entire property at risk in Baltimore may be estimated at one hundred millions of dollars, and only one fort to protect the harbor, and that, as I am informed, not in as good a condition at present as at the close of the late war. The citizens of Baltimore place every dependence on the justice of Congress, and expect that the same protection will be

afforded to Baltimore as has been given to the neighboring cities, and other points of the Union.

TUESDAY, January 6.

Eulogy on General Lafayette.

Mr. HUBBARD, from the joint committee appointed on that subject, reported the following correspondence between the joint committee and JOHN QUINCY ADAMS, on the subject of the address delivered by the latter on the life and character of General Lafayette.

To the Hon. JOHN QUINCY ADAMS:

SIR: We have the honor to present to you official copies of the joint resolutions adopted by the Senate and House of Representatives on the 2d instant, expressing the thanks of Congress for the appropriate oration delivered by you in the Hall of Representatives on the 31st ultimo, on the life and character of General Lafayette, and authorizing a request to be made to you for a copy of it for publication.

Having shared the high gratification of hearing the oration, we take pleasure, in pursuance of the second of the joint resolutions, in requesting you to furnish a copy of the oration for publication.

We have the honor to be, with great respect, your obedient servants,

HENRY CLAY, *Chairman*
of the committee on the part of the Senate.

HENRY HUBBARD; *Chairman*
of the committee on the part of the House.

JANUARY 5th, 1835.

To Messrs. HENRY CLAY and HENRY HUBBARD, Chairmen of the joint committee of arrangements of the Senate and House of Representatives of the United States, to carry into effect the resolution of Congress in relation to the death of General Lafayette:

GENTLEMEN: I received, with deep sensibility, your communication of the joint resolution of both Houses of Congress, upon the oration delivered before them on the life and character of Lafayette:

The kind indulgence with which they have accepted the endeavor to give effect to their purpose of paying a last tribute of national gratitude and affection to the memory of a great benefactor of our country, will be impressed upon my heart to the last hour of my life.

With this sentiment, I shall take pleasure in furnishing, as requested, a copy of the address for publication.

I am, gentlemen, with the highest respect, your fellow-citizen and obedient servant,

JOHN QUINCY ADAMS.

Mr. HUBBARD remarked that the oration was now under the control of the House. It had been considered by the joint committee that it would be most proper for each House to act independently in regard to having it printed, inasmuch as there was no printer to Congress. He asked leave to present the following resolution:

Whereas it was resolved, at the last session of Congress, that JOHN Q. ADAMS be requested to deliver an oration on the life and character of General Lafayette, before the two Houses of Congress; and, in pursuance of that resolution, and sundry other resolutions which have been subsequently adopted, Mr. ADAMS, on Wednesday, the 31st day of December, 1834, in the hall of the House of Representatives, and in the presence of both Houses of Congress, and also in the presence of the President of the United States and the heads of the respective Departments of the general Government, and of a most numerous assembly of citizens, did deliver an oration replete with those pure and patriotic sentiments which will be sacredly cherished by every true and enlightened American; the House of Representatives was satisfied with the manner in which Mr. ADAMS has performed the duty assigned him, and, desirous of communicating, "through the medium of the press," those principles which have been by him so ably discussed, as well as their sentiments of respect for the distinguished character, and their sentiments of gratitude for the devoted services, of Lafayette, which have been by him on this occasion so faithfully expressed, have come to the following resolution:

Resolved, That ——— copies of the oration be printed for the use of the House.

Mr. PEARCE, of Rhode Island, moved to fill the blank in the resolution with 10,000 copies; Mr. PINCKNEY proposed 20,000; Mr. BROWN named 50,000; and Mr. MILLER 40,000.

The question was first put on the largest number, and carried—yeas 80, nays 61.

Mr. EVANS, of Maine, suggested that the oration ought to be printed on better paper, and with more neatness than the ordinary documents which were ordered by the House. He therefore moved to amend the resolution, by directing that the printing should be executed under the direction of the committee appointed by the House.

The resolution, as amended, was then agreed to.

Fuel for the Poor of Washington.

Mr. PINCKNEY asked the unanimous consent of the House to offer a resolution, which he thought would meet with no objection, when it was understood to relate to the distressed situation of the poor of this city.

No objection being made, Mr. P. offered the following resolution; which was agreed to, by a vote of 65 to 60:

Resolved, That the Committee on the District of Columbia be, and they are hereby authorized and instructed to ascertain the amount of fuel that may be necessary for the immediate relief of the suffering poor of Washington, and to place the same at the disposal of the corporation for that purpose.

Claims on Mexico.

The SPEAKER laid before the House the following Messages, &c., from the President of the United States:

To the House of Representatives:

In answer to the resolution of the House of Representatives, passed on the 24th ultimo, I transmit a report from the Secretary of State upon the subject.

ANDREW JACKSON.

DEPARTMENT OF STATE,

WASHINGTON, Jan. 5, 1835.

The Secretary of State, to whom was referred a resolution of the House of Representatives of the 24th ultimo, requesting the President "to communicate to that House such information as he may have, and which, in his opinion, may be proper to be communicated, and not incompatible with the public interest, showing the steps which have been taken, and the progress which has been made, in effecting an adjustment and satisfaction of the claims of American citizens upon the Mexican Government," has the honor to report that, in pursuance of instructions from this Department, various representations have been made to the Government of the United Mexican States, from time to time, by the minister of the United States in that Republic; that, owing to the condition of the country, they have hitherto been without success; but that, in the minister's latest dispatch, dated the 20th October last, he expresses the opinion that the state of affairs will be such, after the then approaching meeting of the Mexican Congress in January, as will enable him to close, in a satisfactory manner, the negotiations now pending. All which is respectfully submitted.

JOHN FORSYTH

North-eastern Boundary.

To the House of Representatives of the United States:

In answer to a resolution of the House of Representatives passed on the 27th ultimo, I transmit a report made to me by the Secretary of State on the subject; and I have to acquaint the House that the negotiation for the settlement of the north-eastern boundary being now in progress, it would, in my opinion, be incompatible with the public interest to lay before the House any communications which have been had between the two Governments since the period alluded to in the resolution.

ANDREW JACKSON.

WASHINGTON, January 6, 1835.

Report to the President of the United States.

DEPARTMENT OF STATE,

WASHINGTON, January 5, 1835.

The Secretary of State, to whom was referred a resolution of the House of Representatives of the 27th ultimo, requesting the President to lay before the House, if in his opinion it is not incompatible with the public interest, any communications which may have been had between the Government of the United States and that of Great Britain, since the rejection by the former of the advisory opinion of the King of the Netherlands, in reference to the establishment and final settlement of the north-eastern boundary of the United States heretofore in controversy between the two Governments; and also requesting the President to communicate any information he may possess of the exercise of practical jurisdiction by the authorities of the British province of New Brunswick over the disputed territory within the limits of the State of Maine, according to the true line of boundary as claimed by the United States, and especially upon that part of the territory which has been incorporated by the Government of Maine into the town of Madawaska; together with such representations and correspondence (if any) as have been had by the Executive of that State with the Government of the United States on the subject—has the honor to report that the Department has no information

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Captain Nathan Hale.

[H. OF R.]

tion which has not already been laid before the House, of the exercise of practical jurisdiction by the authorities of the British province of New Brunswick over the disputed territory within the limits of the State of Maine, nor any other representation or correspondence had by the Executive of that State with the Government of the United States on that subject. Representations were made to this Department in the latter part of the year 1833, by the British minister at Washington, on the part of the authorities of New Brunswick, complaining of infractions of the understanding subsisting between the two Governments in regard to the disputed territory. These complaints, however, on being referred to the Governors of Maine and Massachusetts for explanation, were believed to be without just grounds. There was no complaint on the part of Maine, and the correspondence which took place on the occasion is not supposed to be within the scope of the resolution of the House.

As the negotiation between the United States and Great Britain, which was commenced in accordance with a resolution of the Senate after the rejection of the advisory opinion of the King of the Netherlands, for the establishment of the north-eastern boundary, is now in progress, it is submitted to the President whether it would be compatible with the public interest to lay before the House any communications which have passed between the two Governments on the subject.

All which is respectfully submitted.

JOHN FORSYTH.

FRIDAY, JANUARY 9.

Washington's Papers.

The following joint resolution, yesterday offered by Mr. E. EVERETT, was read a third time:

"Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of State be, and he hereby is, authorized and directed to permit Jared Sparks to retain the papers of General Washington, now in his possession, in virtue of a contract and agreement with the late Bushrod Washington, until he shall have completed the publication of the works of General Washington, on which he is now engaged, or until otherwise ordered by Congress; and that the Secretary of State be authorized and directed forthwith to pay to George C. Washington the balance of the money due to him under the act approved on the 30th day of June, 1834, for the purchase of the books and papers of General Washington."

Mr. SEABORN JONES begged to ask the gentleman from Massachusetts what amount of money had been already paid?

Mr. E. EVERETT said \$20,000 out of \$25,000, the sum agreed upon.

The yeas and nays having been ordered, the question was then taken, and decided in the negative—yeas 87, nays 101.

So the resolution was rejected.

SATURDAY, JANUARY 10.

United States Bank Notes.

Mr. POLK, from the Committee of Ways and Means, reported the following bill:

A BILL to suspend, conditionally, the receipt of the bills and notes of the Bank of the United States and its branches, in payment of debts to the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, from and after the passing of this act, the bills or notes of the Bank of the United States made payable, or which shall have become payable on demand, shall not be receivable in any payment to the United States: *Provided,* That if the said Bank of the United States shall pay into the treasury the full amount of dividends of property on the capital stock of said bank, owned by the United States, heretofore withheld from the treasury by said bank, it shall, upon such payment into the treasury, be the duty of the Secretary of the Treasury to authorize the receipt of such bills or notes in payments to the United States for a period extending to the expiration of the charter of said bank on the 3d day of March, in the year 1836.

The bill was read twice, and committed to a Committee of the Whole on the state of the Union.

Mr. POLK, on leave, moved to print a statement prepared by the Secretary of the Treasury, of the rate of domestic exchange, as charged by the Bank of the United States and its branches, and the different local banks in the Union.

Mr. MCKINLEY moved that 10,000 extra copies be printed; which was agreed to.

MONDAY, JANUARY 12.

Captain Nathan Hale.

Mr. YOUNG presented a memorial for the erection of a monument to the memory of Captain Nathan Hale.

Mr. Y. observed that the memorial was from the inhabitants of the town of Coventry, in Connecticut, the birthplace of Captain Nathan Hale. He presumed the mere mention of the name would bring to mind the prominent event in his history, that which terminated his career, and signally marked him both a victim and martyr in the cause of our independence. It will be recollected that his character, his services, and his fate, bear a striking resemblance to those of the lamented Major Andre. Both were young and highly accomplished officers—brave, chivalrous, and enthusiastic for honor and the glory of their respective countries: both were selected by their respective commanders to discharge a service most difficult and hazardous, and most important to the armies and nations to which they belonged; both, with address, had nearly accomplished their objects, and nearly reached the goal of safety, when they were recognized, arrested, and executed as spies. Widely different, however, has been the regard which has been paid to their memories and names.

The character of Andre is renowned throughout the civilized world, and his name become

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Fortification Bill.

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almost a symbol of honor and sympathy; while the name of Hale is almost forgotten even by his own countrymen. And while poets and historians, even of our country, seem to vie with each other in celebrating the virtues and untimely end of the British Andre, the name of the American Andre seems only to be brought forward to show the connecting links and dependency of events in the history of his times. While pilgrimages are made to the spot where Andre met his fate, and to the grave where his ashes repose, and a proud monument to his memory expresses the gratitude of his country, not one stone has been laid upon another to tell where Nathan Hale was born, or where he died, or where his body sleeps, or to signify for what country he laid down his life, lamenting that he had not another life to lay down for it.

The neglect and forgetfulness of his countrymen to the worth and memory of Captain Hale, and enhanced by this strong contrast continually before them and the world, have been deeply felt by his relatives. But they do not petition here. The inhabitants of his native town, by their memorial, suggest that some national recognition of his services, character, and fate, is due to his memory, and the honor of his country; and pray that, as the place of his interment is not known, some suitable monument may be erected, in the name of the nation, in his native town, in the burial place of his ancestors.

TUESDAY, January 18.

The Public Moneys.

Mr. GAMBLE moved the consideration of the following resolution, heretofore offered by him:

Resolved, That the Secretary of the Treasury be directed to digest and prepare, and communicate to this House, a detailed plan by which the public revenue of the United States may be collected, safely kept, and disbursed, without the agency of a bank or banks, either State or national.

Mr. GAMBLE was anxious, he said, that this resolution should be adopted without delay, as the subject was about to come before the House in the form of a bill from the Committee of Ways and Means. He hoped the House would indulge him in taking up the resolution now.

Objections being made, Mr. G. moved the suspension of the rules, in order to take up his resolution; which motion was rejected.

WEDNESDAY, January 14.

Viva Voce Elections.

Mr. REYNOLDS rose and remarked that, some weeks since, he had offered a resolution, having for its object to change the rule of the House in regard to the mode of electing its officers—requiring that the vote hereafter should be *viva voce*, instead of by ballot. He did not wish to urge this subject on the con-

sideration of the House; but supposed that it would be as well to dispose of it at this as at any other time. It required no great deliberation to arrive at a proper conclusion on it. He therefore moved to take it up.

Mr. WILLIAMS objected.

Mr. REYNOLDS then moved a suspension of the rule, and demanded the yeas and nays: which were ordered, and were—yeas 94, nays 87.

Two-thirds not voting in the affirmative, the motion to suspend the rules was therefore negatived.

THURSDAY, January 15.

Ship Channel around the Falls of Niagara.

Mr. HARD presented the petition of citizens of Niagara county, in the State of New York, for the survey of a ship channel around the falls of Niagara.

In presenting this petition, Mr. H. said he should move the reading and printing thereof. It would be recollected that the Committee on Roads and Canals, at the last session, reported a bill, now on your table, making provision for the survey, examination, and estimate, for constructing the various projects therein mentioned, at the head of which was the project for a ship channel around the falls of Niagara. A survey of this project had already been partially made by an association of private gentlemen, at their own expense; sufficiently accurate, however, to test its practicability, and a favorable and flattering report made, strongly recommending that project. The national importance of this project has been long and universally acknowledged, and its necessity as a national work has become the more obvious, from the fact that our Canadian friends have constructed a similar one across the peninsula lying between Lakes Erie and Ontario on the Canadian side. From the importance of the project, both to the State which I have the honor, in part, to represent, and to the nation at large, I move that the petition be read, referred to the Committee on Roads and Canals, and printed; and it was ordered accordingly.

Fortification Bill.

The House, on motion of Mr. POLK, then passed to the orders of the day.

The fortification bill coming up, and the question being on its engrossment,

Mr. EVERETT moved in the House the amendment which he had offered in Committee of the Whole, proposing the appropriation of \$75,000 for the repair of the fort on Castle Island, in Boston bay. He supported the motion by quoting a report from the War Department, stating the necessity of the fort, and also that the other fort already ordered on George's Island would not be a substitute for this one, as the one would be needed for the inner, the other for the outer harbor.

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Heirs of Richard W. Meade.

[H. OF R.]

Mr. GORHAM read to the House from the report of Colonels Totten and Thayer, who had surveyed the harbor, in reference to the means of its military defence. He accompanied it with a few brief remarks in support of the motion of his colleague.

Mr. POLK replied, denying that any estimates had been sent to the committee from the Department of War, as the basis of an application for appropriation. The report of Colonels Totten and Thayer was not sanctioned by the authority of the Department; it rested on their responsibility. The increase of expense for fortifications had originated in the House, not with the Department, and he called on the House to resist the practice. Let the appropriations be kept down to the amount of estimates. He read from the report of the Secretary of War.

FRIDAY, January 16.

Heirs of Richard W. Meade.

On motion of Mr. AROHER, the House resolved itself into a Committee of the Whole, (Mr. WARD in the chair,) and took up and considered the bill for the relief of the legal representatives of Richard W. Meade.

Mr. AROHER supported the claim at some length, going into a minute detail of all the circumstances out of which it grew. The Government of the United States had put it out of the power of the claimant to collect this debt from Spain, by the solemn stipulations of a treaty. In pursuance of these stipulations, our Government had received a certain sum of money for various claims, including this, and paid out the whole amount to others than the present claimant.

Mr. POLK regretted that some members of the committee had not prepared themselves to meet this bill. It was an old acquaintance in the House, and had long ago been rejected by a vote of more than two to one. Mr. P. opposed the validity of the claim, at considerable length, and gave a succinct statement of the former proceedings both of Congress and of a commission appointed for the purpose several years ago, in reference to it. If the House adopted this bill, they would be reopening a mass of claims to an amount of not less than thirty-nine millions of dollars, which would come under the same principle. Mr. P. also contended that there was no additional evidence presented at this time more than was before the Spanish commission, and on which they had heretofore adjudicated, and appealed to the honorable chairman of the committee if this was not so.

Mr. AROHER said, if the bill should pass, he was given to understand that additional testimony would be adduced.

Mr. POLK said, then he was right; there was no other evidence before the House than was before the commission, and, by passing the bill, the House would be entertaining an appeal from

a tribunal of its own creation, to the hazard of many millions of the public treasure. Mr. P. said, if he could believe there was one dollar due to this individual claimant, he would cheerfully lend his feeble aid towards its recovery. He sincerely desired strict justice to every American citizen. He concluded by expressing a wish that the bill might not be decided upon to-day, but a further time might be given for its investigation.

Mr. AROHER asked for the reading of the bill, by which the House would perceive that it embraced no appropriation, but simply directed an investigation to be made by the Attorney General and two auditors.

The bill having been read by the Clerk,

Mr. POLK called for the reading of the bill of 1828, which having been done, Mr. P. said the first two sections of both bills were the same, but the one before the House contained a provision for the payment of the claim, should a decision be made in its favor, which was not in the former one.

Mr. AROHER said he was not aware before that the bill contained a clause for the payment of the claim. He moved that this clause be stricken out.

Mr. EVERETT, of Massachusetts, called for the reading of a document which had some bearing on the question. The report of the committee of 1826 was then read by the Clerk.

Mr. E. said it was true that the bill of 1828 was lost by a vote of two to one, but he would remind the House that, in 1826, the same bill passed by a majority of not less than two to one, and the honorable gentleman from Tennessee voted in the affirmative.

Mr. POLK said the bill of 1826 was brought on at a late hour of the evening, at the heel of the session, and he would admit that he did vote, as perhaps others did, in the dark, as to the facts, and without having given the subject due examination. Mr. P. also remembered that his vote was quoted against him on the occasion of the rejection of the bill of 1828, and he then gave a similar explanation.

Mr. EVERETT continued to advocate the claim; which, he contended, was founded in truth and justice, and rested upon its own merits, without reference to the other claims alleged by the gentleman from Tennessee to be involved in the same principle. He could see no evil that could result from its reference to a board for investigation.

Mr. HARDIN said he regretted that business of another character had compelled him to be absent during the greater part of this discussion; but he desired to give his sentiments on this claim, since it was one which he had investigated at a former session. He would proceed, if it was the pleasure of the committee, but as the hour was late, he moved that the committee rise.

The motion being agreed to, the committee rose, reported progress, and obtained leave to sit again.

SATURDAY, January 17.

The Judiciary.

Mr. REYNOLDS submitted the following resolution:

Resolved, That the Committee on the Judiciary be instructed to inquire into the expediency of extending the federal Judiciary to all the States in the Union alike, and report thereon.

Mr. R. remarked that he did not pretend to be more patriotic and more able to bring this subject before the House than any other Representative from the new States; but he could not remain a disinterested spectator, and know that the new States were not on an equal footing with the other States. He was raised in one of the new States, and knowing and experiencing the feelings and situation of them, in this respect, he could not rest satisfied on this subject until all enjoyed the same privileges and advantages. The new States could not tax the soil within their limits like the other States, and, in fact, labored under many inconveniences which the latter did not. He conceived that the mere mention of this subject was sufficient to enable this enlightened body to do justice to the new States, and that was all he desired or asked.

Mr. AROHER observed that the subject was already brought before the Committee on the Judiciary by the message of the President.

It being further suggested that a bill on this subject was in a state of preparation—

Mr. REYNOLDS remarked, that he was not heretofore aware of these facts. But, as the subject was before the Committee on the Judiciary, the object was answered, and he would therefore withdraw the resolution.

MONDAY, January 19.

Cherokee Memorial.

Mr. E. EVERETT presented the memorial of a council held at Running Waters, in the Cherokee nation, State of Georgia, November 28, 1885, and accompanied it with the following remarks:

Mr. Speaker: I hold in my hand, and have been requested to present to the House, a paper, purporting to be the memorial of chiefs and head-men of the Cherokee tribe of Indiana, assembled at Running Waters, in that part of the Cherokee country which lies in the State of Georgia, towards the close of the month of November. This council was organized, on behalf of that portion of the Cherokee tribe of Indians who are unwilling, on any terms, to submit to the jurisdiction of the States in which they live, and are desirous of removing, under the protection and by the aid of the United States, to the country already in possession of that portion of their tribe which has crossed the Mississippi.

The original signatures belonging to this memorial are to be found in the original, which

is to be presented in the other branch of the Legislature. An authenticated transcript of them is attached to the duplicate of the memorial, which I have now the honor to submit to the House. They are fifty-seven in number, twenty of which are certified to have been written by those to whom the signatures belong. The other thirty-seven are made in the usual manner of persons unable to write. Of how large a portion of the whole tribe the council at Running Waters may represent the opinions, I am not informed.

The memorial, I am satisfactorily assured, is the production of John Ridge, a distinguished member of the Cherokee tribe, and one of the delegates now present in this city from the council at Running Waters. It is at his request, and that of his associates, Elias Bondine and Archille Smith, that I now present this memorial to the House. It is accompanied by a series of resolutions, adopted at the same council, expressing, in a more condensed form, the opinions and feelings of that portion of the Cherokee nation who were represented in the council, and on whose behalf these papers are now submitted to the House. These documents are too long to be conveniently read in *extenso*, and, for the sake of economizing the time of the House, I beg leave briefly to state their purport:

They set forth, in strong language, the right of their people to the soil on which they live, and their sense of the wrong done them in the measures taken to dispossess them. And in these views, sir, I feel it my duty to say that I fully concur. They represent the progress they have made in the arts of civilization—a progress, no doubt, well calculated to excite admiration. It has excited the admiration of the friends of humanity, both here and in Europe. They express, however, the sorrowful conviction that it is impossible for them, in the present state of things, to retain their national existence, and to live in peace and comfort in their native region. They therefore have turned their eyes to the country west of the Mississippi, to which a considerable portion of their tribe have already emigrated; and they express the opinion that they are reduced to the alternative of following them to that region, or of sinking into a condition but little, if at all, better than slavery, in their present place of abode. They announce this conviction with that bitterness of language which might naturally be expected from men placed in their situation, and which I think will neither surprise nor offend any member of this House. In contemplating the subject of removal, they cast themselves upon the liberality of Congress to extend to them the means of transportation, more consistent with health and comfort than they have hitherto enjoyed; objects which, I fear, have been too much neglected hitherto; a pecuniary allowance as an immediate resource on their arrival in the West; and adequate assurance of a right of property in the soil, and the enjoyment of po-

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French Relations.

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litical privileges in the new abode in which they may then be placed. I have stated to them that a part of these objects are such as, in the usual mode in which the policy of removal has been pursued, would naturally be first provided for by a treaty between the United States and persons authorized to contract on the part of the tribe. They consider, however, that, in the present unhappy state of the tribe, divided as it is by parties warmly opposed to each other on the subject of emigration, it may be at present difficult, if not impossible, to conclude a treaty generally satisfactory. It is also the opinion of the memorialists that, in the present disorganized state of their people, it may be difficult for the Government to recognize parties, with which it could advantageously act in the negotiation of a treaty. On this subject I do not profess to be able to judge. I have not the means of forming a confident opinion, and I do not wish to take any part in the divisions which may exist between the different portions of the tribe. I move you, sir, that the memorial and resolutions be referred to the Committee on Indian Affairs, and printed.

The memorial was disposed of accordingly.

FRIDAY, JANUARY 28.

Relief of Colonel John Eugene Leitensdorfer.

On motion of Mr. R. M. JOHNSON, the House went into Committee of the Whole on the state of the Union, (Mr. PATTON in the chair,) on that bill. It was passed through committee without debate, read a third time in the House, and passed.

SATURDAY, JANUARY 24.

Medal to General Morgan.

Mr. E. EVERETT from the select Joint Library Committee, reported a joint resolution in effect authorizing Morgan Neville to have re-struck from the original die, a medal, similar to the one presented by Congress to General Morgan, which had been stolen, and which was supposed to have been melted down.

Mr. EVERETT stated that the medal referred to was presented by Congress to General Daniel Morgan, who bequeathed it to the memorialist, Morgan Neville. The memorial of Mr Neville (upon which this report was founded) set forth that the medal was stolen from a bank in Pittsburgh, some years ago, and that all attempts to recover it had failed. The medal was of gold, very highly valued by the family, and was stated to be worth, intrinsically, thirty-one guineas. The memorialist asks that a new medal may be struck for him from the original die, which is, or ought to be, at the mint, in Philadelphia. He did not ask that this should be done at the expense of the Government; though, under all the circumstances, he (Mr. E.) would be willing that it should be done at the

public expense. But, as it would be necessary to commit the resolution in that case, which would delay and endanger its passage, he had preferred to move its engrossment in its present form.

The resolution was ordered to be engrossed for a third reading.

The Judiciary—Limitation of Term.

The following resolution, heretofore offered by Mr. HAMER, proposing an amendment to the constitution, was taken up:

"Resolved, That the Committee on the Judiciary be instructed to inquire into the expediency of amending the Constitution of the United States, so as to limit the service of the judges of the Supreme and inferior courts to a term of years."

The consideration of the resolution was postponed.

Viva Voce Elections.

The House, in the order of business, resumed the consideration of the following resolution, offered by Mr. REYNOLDS:

"Resolved, That hereafter, in all elections made by the House of Representatives (for officers) the votes shall be given *viva voce*, each member in his place naming aloud the person for whom he votes."

MONDAY, JANUARY 26.

French Relations.

Mr. PATTON asked the consent of the House to submit the following resolutions, which were read:

Resolved, That the Committee on Foreign Affairs, to which was referred that part of the Message of the President which concerns our relations with France, be instructed to report the following resolutions to the House:

Resolved, That the claims of our citizens for reparation from France, provided for in the treaty of 4th July, 1831, rest upon the strongest ground of right and justice, and their validity and extent have been rendered incontestable as between the two Governments by that convention.

Resolved, That the idea of acquiescing in the refusal of France to execute the treaty will not be entertained by any branch of this Government, and that we ought to insist, and have a right to expect, that France will not persist in the failure to comply with the engagement made in that treaty.

Resolved, That as the King of the French has, in some of the most recent communications which have passed between the ministers of the two Governments, given repeated and reiterated assurances of his sincere desire to have the treaty carried into effect, has declared his intention to present the bill for that purpose as soon as the Chambers can be assembled, and his determination to use every exertion in his power to obtain the appropriation, as the bill was heretofore rejected in the Chamber of Deputies by a very small majority, and as that body is now in session at an earlier period than was anticipated when Congress met, we ought at present to confide in the sincerity of the professions of the French

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Executive, and relying still upon the honor and integrity of France, notwithstanding the unjustifiable delays which have taken place, not now abandon the hope that the obligations of good faith, and a due sense of the justice of our claims will not be, finally, disregarded and overlooked by the French Government in any of its departments.

Resolved, That it is not expedient, at this time, and under existing circumstances, to adopt any legislative measure in relation to our affairs with France.

Mr. CLAY, of Alabama, asked whether the resolutions were reported from a committee; and, on being informed that they were offered by an individual member, objected to their introduction.

Mr. PATTON moved the suspension of the rule, to allow him to offer them; and stated that he merely wished at present to lay the resolutions on the table.

The House refused to suspend the rule—yeas 108, nays 109.

TUESDAY, January 27.

Gold Medal, &c., to Colonel Croghan.

Mr. SPEIGHT, from the Committee on Military Affairs, reported a joint resolution, which had been referred to that committee, with an amendment, authorizing the President to present a gold medal to Colonel Croghan, and swords to several officers under his command, for their gallant conduct in the defence of Fort Stephenson, during the late war.

Mr. PARKER, of New Jersey, said he had no doubt as to the gallantry of these officers; not the least; but if they conferred these distinctions in the present case, why not in others, it would be asked, which occurred during the last war? It was his impression, also, that some acknowledgment had been already made to these officers.

Mr. MERRICK said such was not the case. Mr. M. briefly explained the nature and importance of the services rendered by these officers.

The joint resolution, as amended, was read a third time and passed.

Medal to General Morgan.

The joint resolution introduced by Mr. E. EVERETT, from the Committee on the Library, directing a gold medal to be struck at the mint of the United States, from the original die, at the expense of Morgan Neville, in honor of the battle of the Cowpens, was read a third time and passed.

THURSDAY, January 29.

Death of Warren R. Davis.

After the reading of the journal, Mr. PICKENS, of South Carolina, rose and addressed the House as follows:

Mr. Speaker: It becomes my melancholy and painful duty to announce to this House the death of one of my colleagues, WARREN R.

DAVIS, of South Carolina. He died this morning, a few minutes before 7 o'clock. Sir, it is not my province to speak in the language of eulogy, but I trust I may be permitted to say of the deceased, that, whatever were his faults, they were of such a nature as to sink with him into the tomb, and be forgotten; whilst those who knew him best will remember only that he had a heart full of human kindness, rich in all those qualities that constitute a gallant man. Under wit that was ever brilliant, and humor that never grew heavy, he covered a shrewd sagacity in relation to men, and a thorough knowledge of human affairs. As a public man, perhaps the ruling feeling of his heart was a deep and burning attachment to his native State. With him it was not as with most men, the ordinary principle of patriotism. No, it was a permanent, abiding, passionate affection for her, and all her institutions. So much so, that even in the last days of his lingering illness, at the very mention of South Carolina, you might see the fire of animated but sinking nature rekindle in his eye, and burn upon his cheek. It may be gratifying to his relations to know that, in his last suffering hours, even up to the moment of his death, he retained the full exercise of all his faculties. And when it was announced to him that he would soon have to meet his God, he received the disclosure with the most perfect calmness and composure, and replied in these remarkable words, that "all he desired was to die easily and gracefully."

It may also be to his relations a source of consolation to know, that, during his protracted sickness, up to his death scene, had around him the kindest and most devoted personal friends, who ministered to him all that affectionate attention could prompt.

I will conclude by saying, that in his death this House has lost a prominent member, and his State a patriot citizen, who might have been to her an ornament in the brightest days of her proud career.

Mr. P. concluded by moving that the House will attend the funeral of the deceased at 13 o'clock to-morrow, and in respect for his memory wear crape on the left arm for thirty days; which motions were severally agreed to.

[The SPEAKER announced the following as the committee of arrangements for the funeral: Messrs. PICKENS, AROHER, WILDE, HARDS, COULTER, LANSING, MCINTIRE, CRANE, and LEA, of Tennessee.]

On motion of Mr. MANNING,

The House then immediately adjourned.

FRIDAY, January 30.

No business was transacted in the House of Representatives to-day; the House being en-

* Doubtless having a classical allusion.

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Amendment of the Constitution.

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gaged in attending the funeral obsequies of the late WARREN R. DAVIS, a member of the House.

SATURDAY, JANUARY 31.

Amendment of the Constitution.

Mr. GILMER, from the select committee to which was referred so much of the President's Message as related to an amendment of the constitution in respect to the mode of electing the President and Vice President, reported that the committee had had the subject under consideration, and had come to no conclusion on the same, and he therefore moved that the committee be discharged from the further consideration of the subject; which was agreed to.

Mr. GILMER asked leave to lay on the table the following joint resolution:

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, (two-thirds of both Houses concurring,) That the following amendments to the Constitution of the United States be proposed to the Legislatures of the several States, which, when ratified by the Legislatures of three-fourths of the States, shall be valid to all intents and purposes as part of the constitution, to wit:

1st. No person who shall have been elected President of the United States shall be again eligible to that office.

2d. Hereafter the President and Vice President of the United States shall be chosen by the people of the respective States, in the manner following: On the first Monday and succeeding Tuesday and Wednesday in the month of August, eighteen hundred and thirty-six, and the same days in every fourth year thereafter, an election shall be held for President and Vice President of the United States, at such places, and in such manner, as elections are held by the laws of each State for members of the most numerous branch of the Legislature thereof. And the citizens of each State who possess the qualifications of electors of the most numerous branch of the State Legislature, shall then and there vote for President and Vice President of the United States, one of whom shall not be an inhabitant of the same State with themselves. And the superintendents or persons holding elections in each election district, shall immediately thereafter make returns thereof to the Governor of the State. And it shall be the duty of the Governor, together with such other persons as shall be appointed by the authority of each State, to ascertain the result of said returns, and the person receiving the greatest number of votes for President, and the one receiving the greatest number of votes for Vice President, shall be holden to have received the whole number of votes which the State shall be entitled to give for President and Vice President: which fact shall be immediately certified by the Governor, and sent to the seat of the Government of the United States, to each of the Senators in Congress from such State, to the President of the Senate, and to the Speaker of the House of Representatives. The places and manner of holding such elections, of canvassing the votes, making returns thereof, and ascertaining their result, shall be prescribed in each State by the Legislature thereof. But Congress may, at any time, make or

alter such regulations. Congress shall have the power of altering the times of holding the election, but they shall be held on the same days throughout the United States: and of altering the time, hereinafter prescribed, for the assembling of Congress every fourth year. The Congress of the United States shall be in session on the second Monday in October, in the year one thousand eight hundred and thirty-six, and on the same day in every fourth year thereafter; and the President of the Senate, in the presence of the Senate and House of Representatives, shall, as soon as convenient and practicable, proceed to open all the certificates and returns, and the electoral votes of the States shall be thereupon counted. The person having the greatest number of votes for President shall be President, if such number be a majority of the whole number of votes given; but if no person have such majority, or if the person having the majority of the whole number of votes given shall have died before the counting of the votes, then a second election shall be held on the first Monday and succeeding Tuesday and Wednesday in the month of December then next ensuing, which shall be confined to the persons having the two highest number of votes at the preceding election. But if two or more persons have the highest and an equal number of votes, then to the persons having the highest number of votes: Provided, however, if in the first election there were but two persons voted for, and the person receiving the highest number of votes shall have died before the counting of the votes, then, in the second election, the choice shall not be confined to the persons previously voted for, but any person may be voted for who may be otherwise qualified by the constitution to be President of the United States; which second election shall be conducted, the returns made, the votes counted, and the result of the election in each State certified by the Governor, in the same manner as in the first, and the final result of the election shall be ascertained in the same manner as in the first, and at such time as shall be fixed by law or resolution of Congress; and the person having the greatest number of votes for President shall be President. But if two or more persons shall have received an equal and the highest number of votes at the second election, or if the person who shall have received the majority of the whole number of votes given at the second election shall have died before the counting of the votes, then the House of Representatives shall choose one of the remaining number of the persons voted for for President, in the manner now prescribed by the constitution. But if there shall have been but two persons voted for in the second election, and the person who shall have received the highest number of votes shall have died before the counting of the votes, the Vice President then in office shall be President for the next succeeding term. The person having the greatest number of votes for Vice President, at the first election, shall be Vice President, if such number be a majority of the whole number of votes given. And if no person shall have received such majority, or if the person who shall have received the majority of the whole number of votes given shall have died before the counting of the votes, then, of the persons having the two highest number of votes, the Senate shall choose one for Vice President; but if two or more persons have the highest and an equal number of votes, then the Senate shall choose a Vice President from the persons having the highest number of votes. But if there shall have been but two persons voted for, and the

person who shall have received the highest number of votes shall have died before the counting of the votes, then the remaining person shall be Vice President; or if all the persons voted for shall have died before the counting of the votes, then the Senate shall choose one of their own body for Vice President.

3d. No Senator or Representative shall be appointed to any civil office, place, or emolument, under the authority of the United States, during the time for which he was elected, and for six months afterwards.

Mr. SPEIGHT remarked that there was no subject of greater importance before the House, and though we were so near to the end of the session, he hoped the gentleman would move the postponement of the resolution to a day certain, with a view to its consideration. Even if the subject should not be finally acted upon at this session, the discussion of it would be beneficial, inasmuch as it would bring the subject more fully before the people.

Mr. GILMER said he would be pleased to have the resolution read twice and committed to the Committee of the Whole on the state of the Union.

The resolution was laid on the table, and ordered to be printed.

Claim of the Heirs of Rochambeau.

A Message in writing was received from the President of the United States, by Mr. Donelson, his private secretary, which was read, and is as follows:

To the House of Representatives of the United States:

With reference to the claim of the granddaughters of the Marshal de Rochambeau, and in addition to the papers formerly communicated, relating to the same subject, I now transmit to the House of Representatives, for their consideration, a memorial to the Congress of the United States, from the Countess d'Ambrugeac and the Marquis de la Goree, together with the letters which accompanied it. Translations of these documents are also sent.

ANDREW JACKSON.

The Message was ordered to be printed and lie on the table.

MONDAY, February 2.

Slavery in the District of Columbia.

The House proceeded to the consideration of several petitions and memorials from sundry citizens of the State of New York, (one of which was signed by eight hundred ladies,) praying the abolition of slavery and the slave trade in the District of Columbia, presented last Monday by Mr. DICKSON, and laid over to this day.

Mr. DICKSON said: Mr. Speaker, on the presentation of these petitions, and asking for them a different reference from that usually given to such petitions, I propose to offer a few remarks. They shall be presented in that blended spirit of freedom and candor, truth and justice, that becomes a member of this House.

I will not conceal my own feelings, and I shall studiously avoid intentionally injuring those of others. And whilst I am opposed to and deeply deplore the existence of slavery in every form, and in every land, I, in common with the petitioners, disclaim all power in the national Government to control or abridge its duration in the several States of this Union. And throughout these remarks, in speaking of slavery in this country, I wish to be understood as confining my remarks to that portion of the country over which the national Government has ample and complete jurisdiction, and the sole power of legislation, and that is the District of Columbia. One of the petitions is signed by more than eight hundred ladies of the city of New York. In the Jewish, Greek, and Romish histories, we learn that female remonstrances and entreaties were often heard in the public councils, and, in one instance, were the cause of "enlargement and deliverance," of "light, and gladness, and joy, and honor," to a despised and an oppressed people; and in all instances roused the patriot, the statesman, and the hero, to deeds of usefulness and glory, and were all-powerful in expanding and extending the principles of charity, humanity, and benevolence, and in breaking the chains of oppression. In the chivalrous ages of modern Europe, and since, and in the war of our independence, the influence of woman was talismanic over the heart of man, and roused to action all his noblest energies. And to her honor, all her remonstrances, petitions, and entreaties, and all her influence, have ever been exerted in favor of humanity, benevolence, and liberty. And, surely, the chivalry of this House will never permit it to turn a deaf ear to the remonstrance of ladies, pleading, as they believe, for the wronged and the oppressed.

The petitioners complain that a portion of the people of the District of Columbia are, without crime, disqualified as witnesses. A freeman may commit any crime, even murder itself, in the presence of slaves only, and escape conviction and punishment. They complain that, by the laws of the District, which are the laws of Congress enacted to govern the same, every black man, and every mulatto of every shade and complexion, though born and nurtured in freedom all his days, the moment he touches the soil of the District, is presumed a slave; and, by an ordinance of the city of Washington, he is treated as a disorderly person, and required to exhibit to the mayor, within thirty days, evidence of his freedom, and enter into a bond with two freehold sureties, in the penalty of five hundred dollars, conditioned for his peaceable, orderly, and good conduct, and not to become chargeable to the corporation for twelve months, to be renewed at the commencement of each year for two successive years, or forthwith depart from the city, or be committed to the work-house until he complies with such requisitions; such imprisonment not to exceed twelve months for each

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neglect; so that the poor black or mulatto may be imprisoned at hard labor in the work-house, for the term of three years, although innocent, and without crime.

He may have been well educated, moral, and industrious; have exercised the elective franchise, and voted for the highest officers of the national and State Governments, entitled to all the rights and privileges of the white man, and of an American citizen; yet, in this District, he shall be presumed a slave, and in the city of Washington, a disorderly person, and compelled to give security for his good behaviour for three years. No such presumption of crime is known to the laws of England, to the civil law, nor to the municipal code of the most despotic country in Europe. It has no foundation in the law of nature, the common law, nor in common justice, and is contrary to the genius and spirit of all wise and free Governments. It is a maxim, that every man is to be presumed free and innocent, founded on the immutable principles of eternal justice, acknowledged by all, and which can never be changed but by that arbitrary tyranny which feels power, forgets right, and knows neither mercy nor justice.

The petitioners complain that, by the laws of the District, every such free black man or mulatto, going at large without the evidence of his freedom, is liable to be taken up as a runaway slave, and thrown into prison, and sold for prison fees as a slave for life, unless he proves his freedom. Unless he proves his freedom!—a freedom given him by a power older than the laws which incarcerate him—older than the country which gave him birth—older than the primeval days of time, and which shall endure when this world is on fire, and time shall be no more, by God himself.

They complain that, by the laws of that part of the District formerly Maryland, though such person be a freeman, and prove his freedom, and shall then refuse to pay the fees and rewards for apprehending fugitive slaves, he may be committed to prison, and sold as a slave for life; so that a freeman, although he does away the before-mentioned odious presumptions of law by clear proof, must still pay for his own illegal arrest and false imprisonment, for being thrown into the damps of a dungeon, and shut out from the light of day, for all the injuries, indignities, and wrongs, that could be heaped upon him, or be sold as a slave, and never more to breathe the air of freedom. Terrible alternative! more afflictive to a human being, having the feelings of a man, of a freeman, than death itself. Such laws are meshes to entrap the unwary, and to consign a freeman to servitude for life. They are man-traps set at the seat of Government of this Republic, to seize and drag into perpetual bondage a freeman, entitled to all the rights and privileges of an American citizen. Does such a statute blot the page or tarnish the annals of any other Republic on earth? Does it dishonor the pages of

any monarchy or despotism now in the world? The tyranny of Caius Verres, in a province of the Roman empire, was mercy when compared with such a law. Many, very many freemen, have fallen victims to this merciless law, and lost all dear to them on this side of the grave.

The petitioners complain of the severity of the punishments that may, by the laws of the District, or of that part of it which was formerly Maryland, be inflicted on slaves; that any negroes, or other slaves, for rambling by night, or the riding of horses by day, without leave, may be punished by whipping, cropping, branding, or otherwise, not extending to life, or rendering them unfit for labor; and for murder, arson, and petit treason, to have the right hand cut off, to be hanged, to have the head severed from the body, the body divided into four quarters, and the head and quarters to be set up in the most public places of the country where the crime was committed. Such criminal laws, if not executed, and it is not pretended they are, to their full extent, appear like the relic of an extreme barbarous age, and, in this enlightened and humane age of the world, are a foul blot on our statute book, and ought to be modified or repealed.

The petitioners complain that, by the laws of the United States, the slave trade, in and through the District of Columbia, is permitted to be carried on with distant States, and that this District is the principal mart of the slave trade of the Union.

Sir, the foreign slave trade with Africa is condemned by the laws of this country, of England, of France, and by those of almost every nation of the civilized world, as piracy; and those who carry it on are denounced as outlaws and the common enemies of the human race. And yet we tolerate, in this District, and at our seat of Government, a traffic productive of as much pain, anguish, and despair, of as deep atrocity, and as many accumulated horrors, as the slave trade with Africa.

And here there are no foreign powers to compete with us; we have no rivals; the trade is all ours, and the odium and the guilt are all our own. The traffic was, in former years, presented by a grand jury of the District as a nuisance. And, as long ago as the year 1816, it was denounced by the ardent and eloquent John Randolph, of Roanoke, on this floor, as a nuisance, and as "an inhuman and illegal traffic in slaves;" and, on his motion, a select committee was appointed to inquire into the trade, and what measures were necessary for putting a stop to it. The committee were empowered to send for persons and papers; called before them many witnesses; and took numerous depositions, depicting in glowing terms the enormities and horrors of the traffic, and reported them to this House. But I do not find that any thing further was done by that talented, but sometimes eccentric man, or by the House.

Since that time the slave trade in the District has increased in extent, and in its enormi-

ties. Free blacks have been kidnapped, hurried out of the District, and sold for slaves. Slaves for a term of years have been sold to the slave traders, transported to a distant land, beyond the hope or possibility of relief; sold as slaves for life, and their temporary had been changed into a perpetual bondage. It has been said by a committee of this House, that the last-mentioned class may apply to the courts; that the courts are open to them in the District.

To talk to men degraded to the condition of cattle, (their masters their enemies, conspiring with the purchaser to deprive them of liberty for life, and no freeman their friend,) of courts of justice, is adding insult and scorn to injustice, and aggravating their doom by a mockery of all the forms and all the tribunals of justice.

Private cells and prisons have been erected by the slave traders in the District, in which the negro is incarcerated until a cargo of slaves, of "human chattels," can be completed. The public prisons of the District, built with the money of the whole people of the United States, have been used for the benefit of the slave traders, and the victims of this odious traffic have been confined within their walls. The keepers of those prisons, paid out of the moneys of the whole people, have been the jailers of the slave traders, until their drove, their cargo of human beings, could be completed.

The petitioners complain that a traffic so abhorrent to the feelings of the philanthropist, so replete with suffering and woe, is approved and licensed by the corporation of the city of Washington, which receives four hundred dollars a year for each license, thus increasing her treasures by the express sanction of so odious a trade. Finally, the petitioners complain of the existence of slavery in the District of Columbia, as the source of all the before-mentioned evils, and others too numerous now to detail. They consider it as unchristian, unholy, and unjust, not warranted by the laws of God, and contrary to the assertion in our Declaration of Independence, that "all men are created equal."

In the last debate, and in the last speech made on this floor on this subject, it was denied that these words meant, or had any allusion to slaves, and was asserted that many of the signers of the declaration were masters of thousands: "and had they an eye at all to slaves when they signed it, they would have been hypocrites, unworthy of being commemorated as patriots, or honest men." Then slaves are not men, for the terms used were the broadest that could be used, and embraced the whole species. Let us consider for one moment whether the blacks and the mulattoes of this country are men like ourselves, and whether the signers of our Declaration of Independence were hypocrites. Heathen poetry instructs us that man, a generic term, embracing the whole species, all sexes, all ranks and conditions, all colors, and all complexions, was created in the resemblance of the gods; and that, while other animals looked upon the earth and never raised

their eyes, to him was given, by his God, a countenance of dignity and lofty grandeur; and he was commanded to behold the heavens, and raise his elevated looks to the starry mansions and the abodes of the Eternal.*

The heathen philosophers teach us that man was created in the likeness of the Almighty, of God; and neither heathen poetry nor heathen philosophers ever informed us of the creation of more than one species of man. By their doctrines, man was created the brother of his fellow-man, and his equal. The Old Testament informs us that "God created man in his own image, in the image of God created he him," and gave him dominion over all the earth, the fish, the beasts, the fowls of the air, and every creeping thing, but no dominion over and no power to enslave his fellow-man.

And here, again, we learn the creation of but one species of man. Christianity, in all its holy precepts, and the New Testament, instruct us that "God hath made of one blood all nations of men, to dwell on all the face of the earth." Revelation, then, yea, God himself, has declared there were and are but one species of man: that all men are descended from one common origin, and were all created equal. The wise framers of the Declaration of Independence, and the founders of this Republic, in accordance with the doctrines of heathen poetry and heathen philosophy, of Christian philosophy, of the Scriptures, and of Revelation itself, in that immortal instrument, the enduring monument of their wisdom, proclaimed to an admiring world, as "self-evident, that all men are created equal; that they are endowed by their Creator with certain inalienable rights; that among these are life, liberty, and the pursuit of happiness." Did they mean slaves? Can any one doubt that they did? They spoke of man not as black, or white, but as embracing the entire species, all colors and all complexions.

Enlightened citizens of a Christian country, they shall be presumed to have spoken as Christian men; and none but infidels, and those who deny the authenticity of the Scriptures, will pretend that God ever created more than one species, one race of men. They were no hypocrites. They were patriots, nobly struggling for their country's freedom; their hearts were warmed with the fires of liberty; they breathed benevolence and good will to the human race, and, in deferential homage to the Ancient of Days, proclaimed aloud to the bond and free, the truth, impressed alike on the heart of the lettered and unlettered man by nature and nature's God, that "all men are created equal."

Whence, then, and who made the distinction between the white and the black man? It was not the decision of ancient times. Then the slave was the victim of conquest, and a white

* Finxit in effigiem moderantum cuncta Deorum
Pronaque cum spectent animalia cetera terram;
Os homini sublime dedit; coelumque tuari
Jussit. Erectos ad sidera tollere vultus.
[Ovid's Met. B. 1, verse 38, &c.]

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man. Nor has the decision of modern times been uniform on this subject. For, as late as the eleventh and the first half of the twelfth century, hundreds and thousands of the youths of both sexes, of beautiful forms, from the peasantry of England, were fastened together with ropes, taken to the city of Bristol, and sold into slavery in Ireland. It was abolished on the conquest of Ireland by Henry II.

The slaveholders in ancient times, and in Ireland, contended with as much zeal for their right to enslave the white man, as any slaveholder in this District for his right to hold in bondage the black man or the mulatto.

It has been regretted by a committee of this House, "that persons without the District," as well members of Congress as others, "and having no concern with it," should attempt to procure the abolition of slavery and the slave trade here; and it was, in the year 1829, declared by a member of the House, in debate on this floor, to "be meddling with matters truly other men's."

Sir, the territory is federal, and is under the care, protection, and government, of the whole people of the United States. Congress is the sole legislative body for the District, to the exclusion of all others, and here possessing undefined, unlimited legislative powers, selected by the people of the whole Union. The whole Union defrays the expenses of the local Legislature and of the entire territorial Government, builds penitentiaries, endows schools and colleges, makes sidewalks, Macadamized roads, canals, aqueducts, and bridges, pays the interests on loans, and beautifies and adorns the District by its navy yard, its arsenal, its Capitol, and other public buildings and improvements, and enriches it by the annual expenditure of millions.

Every member of the House may, with or without petition, originate, bring forward, and propose to Congress any bill for the benefit of, or in any way concerning, his own immediate district, his State, or any State in the Union. His powers for such purpose are, and must be, co-extensive with the jurisdiction of Congress. The power is incident to all legislative assemblies, having a general jurisdiction and the power of legislation. It is not only the right, but the duty, of a member, to watch over, and with vigilance to guard, protect, and promote, the interests of all parts of the country. And shall it be said that he has no right and power to propose laws for the District of Columbia, to do away wrongs and oppressions here, where his powers of legislation are more unlimited than in any other part of the Union? The idea that he cannot, seems to me preposterous. And if a member has such right, surely his mind may be enlightened, his attention awakened to corruption, crimes, or oppressions here, and his patriotism roused to action, by the petitions of his constituents, or of the people of any other portion of his country. In this District every member of Congress, and every citizen of the

Republic, should feel a deep and lively interest. They all have a voice in selecting its rulers, they all contribute to defray its expenses, and they all have a deep concern in its honor and glory, and have a right to be heard in its legislative assembly, in all matters concerning the appropriation of money here, or the correction of abuses, oppressions, and tyranny. As the seat of their empire, under the superintending power of the General Government, they have a right to require that it shall be governed in accordance with our Declaration of Independence and the principles of free government, and that the despotism of Archangel and of Turkey shall not prevail here.

But, sir, if it were necessary that the citizens of this District should petition, many of them have petitioned for the abolition of slavery and the slave trade in this District, and this fact may not be known to most of the members of this House. I hold in my hand a petition, taken from the files of this House, presented in the year 1828, signed by the judges of the circuit court of the District of Columbia, and more than 1,000 respectable citizens of the counties of Alexandria and Washington, and then owning a large proportion, and, I am credibly informed, more than a moiety of the property of this District. So that the abolition of slavery here would be in accordance with the feelings and wishes of a large and highly respectable portion of the citizens of the whole District.

Sir, the petitioners ask that slavery and the slave trade in and through the District of Columbia may be abolished, with their appalling train of evils. They enter into no details, and they prescribe no terms, no conditions. Those they very properly submit to the discretion and the wisdom of Congress. They ask that these petitions may be referred to a select committee. This request, I submit, is reasonable, and should be granted. The parliamentary usage of all free deliberative and legislative assemblies requires that the petition should be referred to a committee, a majority of whom should be favorable to the prayer of the petitioners. Similar petitions, for years past, have been referred to the Committee on the District of Columbia, and for the last ten or twelve years, I believe, a majority of the Committee on the District have been from the slaveholding States. I mean no reflection on the Speakers of the House, but mention it as a fact prover to be known by the people. Perhaps, as long as it was a slaveholding territory, it was proper in relation to the general business and interests of the District that a majority of the committee should be from the slaveholding States. But, sir, their early education, associations, habits, and interests, and a knowledge of human nature, must convince us that they could never view petitions such as those now presented with a favorable eye, and consider them without that prejudice natural to and inseparable from the honorable, the worthy, and the very best men.

Sir, at the session before the last, at the last

session, and at the present, similar petitions, from various parts of the Union, signed by many thousands of citizens, have been presented to this House and referred to the Committee on the District, and no report has been made thereon to this House.

I mention this as a fact only, and do not intend to cast any censure on the present or past committees of the House. They may have had good and sufficient reasons for the course they have pursued, unknown to me. But, sir, I differ with them entirely in opinion, as to the course they have pursued, and must frankly declare that, on a question of so much importance, of so great magnitude, I believe it would have been better for the majority of the committee to have made a report favorable or adverse to the prayer of the petitioners, and thus have enabled the minority to present a minority report. And thus would all the facts and circumstances connected with slavery and the slave trade in the District, and the views and reasons of the whole committee, have been published, and seen and read by the American people. But the petitions are not published—there is no report—and no light is shed on the dark subject of slavery and the slave trade.

A right "to petition the Government for a redress of grievances," is secured to the people. But, sir, of what use to the people is the right to petition, if their petitions are to be unheard, unread, and to sleep "the sleep of death," and their minds to be enlightened by no report, no facts, no arguments? Have Congress the power to abolish slavery and the slave trade in the District? It is believed they have. Of the three committees who have reported very briefly on the subject, one expressed no opinion, another admitted Congress had unlimited powers, and the other admitted that they had by the letter, but denied that they had by the scope, spirit, and meaning of the constitution, without the consent of the people of the District.

By the constitution, article one, section eight: "Congress to exercise exclusive legislation, in all cases whatsoever," over the District.

Could language give higher power, or greater authority? The power of Congress more unlimited than that of Legislatures of the several States! They are limited in many instances by the Constitution of the United States. To the power of Congress over the District there is no limitation. It is undefined, unlimited, and absolute, or it has no foundation and no existence. Congress never did, it had no power, and never could have received and accepted, without a convention of the States, a cession from the States of Maryland and Virginia, abridging, in the least, such unlimited powers. Congress has, then, the same power over the subject in the District that the several State Legislatures have in the several States. Several of the State Legislatures have abolished slavery in their respective States. And the power, I believe, is universally conceded to every State

Legislature to abolish slavery and the slave trade within its own territories. Congress must have such power over the District, or whilst slavery may be abolished in every State in the Union, it must be perpetual here. We should then have a Republic, rotten at the core, boasting of its freedom and tolerating the most cruel and odious oppressions. But if the consent of the people of the District be necessary, the entire consent of the whole people must be obtained. The majority cannot act; the majority have no power, no will, and if they had, they have no legislative organ but Congress to express it. So that by this doctrine, whilst slavery may be abolished in the several States, it must still be perpetuated here. For never, until human nature is entirely changed, or until the millennium, when enslaved man will be emancipated by a power more than moral, will all the citizens of this District unite in the abolition of Slavery!

And are the measures proposed by the petitioners expedient? It is believed that they are. And here I would beg leave to notice some of the objections that have heretofore been made to their adoption. It has been said, by a former committee of this House, that "the question must, in the end, unless suffered to rest, be productive of serious mischief, if not danger, to the peace and harmony of the Union." Not so. Slavery here has no necessary connection with slavery in the several States. It exists so far as that is concerned, under separate Governments, and the action of one of these Governments, in relation to slavery, has no necessary connection with the action of the others.

Again, it was said by the same committee, the question "creates a restlessness in the slave for emancipation, rendered incompatible with the existing state of the country. Humanity may sometimes fail of its object, and rivet tighter the chains it would loose, by injudiciously interposing its good offices, in cases where it belongs more properly to others to act."

Sir, the petitioners claim, and I claim, an equal right to act and to be heard with any citizen of the District or of the Republic. Strange, indeed! if we have only to give, give, and have not the right to petition "for a redress of grievances," wrongs, and cruel oppression. Shall humanity be told, shall the hundreds of thousands who have petitioned be told, that her and their efforts will only rivet tighter the chains of slavery in this District! No danger of insurrection can or will be feared in the District. The number of whites is near five to one of the slaves, and considerably more than twice that of the entire black population. The excess of the white population, the military, the marines, the arsenal, arms and ammunition, are a complete and entire security against any and all insurrections of the slaves in the District.

Again, it was said by the same committee, "it is not the District of Columbia alone that

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is interested, but a large portion of the United States, that must be affected by every movement of the kind, and particularly Maryland and Virginia," and that slavery ought not to be abolished here until abolished in those States.

I deny that the question has any necessary connection whatever with the slaveholding States. The abolition of slavery here would be productive of no injury to the surrounding States. It has been abolished in one State without injury to an adjoining State. And to make the abolition of slavery in the District dependent upon its abolition in the States of Maryland and Virginia, would prevent the General Government from selecting their own time for the performance of an act of justice, too long delayed, to a much-injured class of our fellow-beings. The will of the national Government, as well as the benevolent wishes and prayers of hundreds of thousands of humane petitioners, would be dependent on the legislative acts of two separate Governments. The petitioners disclaim all alliance between slavery here and slavery in the several States; and I hope that the citizens of the slaveholding States will not claim such alliance, and that they will not attempt to make slavery here dependent upon slavery there; and that they will not contend that an attempt to abolish slavery in this District is a meddling with slavery in the several States. Should they thus claim, and thus contend, ought not the eight millions of people inhabiting the free States to double their exertions for the abolition of slavery in this District? But, sir, I cannot believe they will claim such alliance.

Sir, I believe it is expedient to grant the prayer of the petitioners, and to abolish slavery and the slave trade throughout the District. They are not warranted by the laws of nature, or of God, and are oppressive and unjust—and injustice can never be tolerated without crime, where the power exists to correct it. And it appears to me that no one can seriously doubt that Congress possess full and ample power. It will strengthen the District, by the introduction of a free population, and do much to protect it against all future invasion. The abolition of slavery will render the District more prosperous. Agriculture will flourish; its fields and plantations will be better cultivated and improved. Arts and manufactures will be increased, and industry and enterprise will be doubled. The black population will be rendered more serviceable than they now are; for in the same proportion that you degrade man you destroy his usefulness. Money would be more freely appropriated, and a better feeling towards the District would exist. Greater harmony would prevail throughout the Union. The public mind would be quieted and tranquillized. The power of Congress over slavery spent and ended, there would be no more petitions for the abolition of slavery—none, none would ask Congress to interfere with slavery in the several States.

The prayer, then, of the petitioners is reasonable; in accordance with the nature of man, and founded on the principles of eternal justice. The time, the age, the progress of liberal principles throughout the world, seem to require of this Republic the abolition of slavery in the District of Columbia. The inquisitions of Spain and Portugal have been abolished, and slavery throughout the British dominions has ceased to exist. The abolition of slavery has kept pace with the march of republican principles in South America, and there, as sceptres have fallen from the hands of kings and tyrants, the shackles have fallen from enslaved men; and slavery has ceased to exist, and is unknown throughout the South American Republics. It is only known in Brazil, which is still a monarchy, and has never assumed a Republican form of government. And shall slavery be upheld and retained by this Government, boasting of its freedom and its republican principles? Our country spent hundreds of millions of dollars, and lost tens of thousands of lives to secure our independence and freedom from the tyranny and oppression of Britain. And we uphold and support, at the seat of our Government, personal servitude, personal bondage, and cruel oppressions, harder to be endured by the sufferers for one day, than years, ay, than ages, of the oppressions of Britain, by our ancestors. And do not our professions, consistency, and the honor of our country, demand freedom from personal bondage in all places under the sole legislation of the national Government? If we refuse to grant it, shall we not be liable to be reproached in the following language of the illustrious Jefferson, when speaking of slavery and the struggle of our ancestors with England: "What a stupendous, what an incomprehensible machine is man, who can endure toil, famine, stripes, imprisonment, and death itself, in vindication of his own liberty, and the next be deaf to all those motives whose power supported him through his trial, and inflict on his fellow-men a bondage, one hour of which is fraught with more misery than ages of that which he rose in rebellion to oppose."

Those whose early education, associations, habits, and interests, have familiarized them to slavery, surely cannot refuse to unite with those opposed to it from education, early habits of association, thinking, and acting, and, as they believe, from religion itself, to banish slavery, and all its real or supposed evils, from the District of Columbia. The common land, where all the legislators of this country meet to transact the business of a great and the only Republic, should be lovely, smiling with peace, and blessed with the especial presence of liberty and justice. No bondage, no stripes, no fetters, or chains, inflicted or fastened on man without crime; no tears and screams of the oppressed, no heartbroken lamentations, no wailings of despair for the lights of morality and religion extinguished; for hopes present and hopes future ruined; for all the delightful and holy as-

sociations and joys of domestic bliss, (for I consider the negro as man;) for all the ties of kindred, of blood, and of nature, torn asunder and dissolved forever, should fatigue the eye or pain the ear of any legislator or officer of this Government, or of the citizen of this or of any other country, who makes a pilgrimage to this Mecca, this land of the faithful, this, as it should be, chosen residence of freedom, to render homage at the shrine of liberty.

Every man, in looking at this District, and this alone, must agree with me. To render this chosen land beloved by all, the pride and the glory of all, we must first render it lovely. Lovely it can never be to all, while slavery and the slave trade continue to tarnish its annals. Methinks I hear some one exclaim, the present is an inauspicious time; the country is not yet prepared for such a measure. How long shall the legislators of this country wait, before they spread the unalloyed blessings of an entire exemption from personal servitude over this District? For more than thirty years the citizens of the country have petitioned Congress to abolish slavery and the slave trade in this District. Grand juries of the District have presented the slave trade as a nuisance. Essays have been published in the newspapers of the District, recommending, and more than one thousand citizens of the District have petitioned for the abolition of slavery and the slave trade.

And again, I ask, how long shall Congress wait? How long! oh, how long! before a citizen of this only Republic, in view of the freedom of this District and emancipated man here, may with equal pride, equal justice, and with as much truth, burst forth in the elevated sentiments uttered in the warm impassioned language and burning words of the Irish advocate and orator, when contemplating the freedom and exemption of England, a country governed by a crowned head and an hereditary peerage, whose tyranny and oppressions our ancestors could not endure, from personal servitude and negro bondage. How long! oh my God! how long before an American citizen, before American law, in the genuine spirit of American freedom, may with truth proclaim to and of the stranger and sojourner here, to and of man, to every man in this District—"that the ground on which he treads is holy, and consecrated by the genius of emancipation. No matter in what language his doom may have been pronounced; no matter what complexion incompatible with freedom an Indian or an African sun may have burnt upon him; no matter in what disastrous battle his liberty may have been cloven down; no matter with what solemnities he may have been devoted on the altar of slavery, the first moment he touches the sacred soil," not, ah not of Britain, but of the District of Columbia, "the altar and the god sink together in the dust; his soul walks abroad in her own native majesty; his body swells beyond the measure of his chains that burst from around him, and he stands redeem-

ed, regenerated, and disenthralled, by the genius of universal emancipation."

Mr. D. then moved a reference of the memorials to a select committee.

Mr. CHINN said he did not rise to defend the course pursued by the present or any previous Committee of the District of Columbia, upon the subject of the memorial. He hoped that neither the present nor any previous committee required any such defence. Nor did he mean to disturb the deep sympathy or the tender mercies of the gentleman from New York, still less of the eight hundred fair memorialists who have made the gentleman their champion. He only moved to lay the whole subject on the table, and upon that question he demanded the yeas and nays.

The question being taken, it was decided in the affirmative, as follows:

YEAS.—Messrs. John J. Allen, Chilton Allen, William Allen, Archer, Ashley, Bouldin, Bush, Bynum, Cage, Cambreleng, Campbell, Carmichael, Carr, Chaney, Chilton, Chinn, Claiborne, Clay, Clayton, Clowney, Coffee, Cramer, Crockett, Davis, Davenport, Day, Deberry, Dickerson, Dickinson, Duplap, Felder, Ferris, Forester, Foster, William K. Fuller, Fulton, Gamble, Garland, Gholson, Gillet, Gilmer, Gordon, Gorham, Graham, Grayson, Griffin, J. Hall, T. H. Hall, Halsey, Hamer, Hannegan, Hardin, Hathaway, Hawkins, Heath, Howell, Huntington, Inge, Ebenezer Jackson, Jarvis, R. M. Johnson, H. Johnson, Kinnard, Lane, Lansing, Lea, Lewis, Love, Loyall, Lucas, Lyon, Abijah Mann, Marshall, Marks, May, McComas, McIntire, McKay, McKim, McVea, Mercer, Henry Mitchell, Robert Mitchell, Murphy, Parks, Patterson, Peyton, Pickens, Pierce, Pierson, Pinckney, Plummer, Polk, Pope, Rencher, Reynolds, Robertson, Schley, Shepard, Smith, Spangler, Speight, Standefer, Steele, Wm. P. Taylor, Philemon Thomas, Tompkins, Turner, Turrill, Vanderpoel, Van Houten, Watmough, White, Wilde, Williams, Wilson, Wise.—117.

NAYS.—Messrs. John Quincy Adams, Heman Allen, Banks, Barber, Bates, Baylies, Bell, Binney, Bockee, Briggs, Brown, Burd, Burgess, Burns, Casey, Chambers, William Clark, Coulter, Crane, Darlington, Denny, Dickson, Evans, Edward Everett, Filmore, Fowler, Philo C. Fuller, Galbraith, Grennell, Hard, J. M. Harper, James Harper, Harrison, Baelstine, Heister, Hubbard, William Jackson, Benjamin Jones, Kilgore, Laporte, Lay, Thomas Lee, Lincoln, Joel K. Mann, Martindale, Moses Mason, McCarty, McKennan, McLene, Miller, Milligan, Miner, Morgan, Osgood, Parker, D. J. Pearce, Phillips, Potts, Ramsay, Reed, Schenck, Shinn, Slade, Sloane, Stewart, W. Taylor, Thomson, Trumbull, Tweedy, Vance, Vinton, Wagener, Wardwell, Webster, Whallon, F. Whittlesey, Young.—77.

TUESDAY, February 3.

Duty on Foreign Coal.

Mr. FERRIS, by consent, offered the following resolution:

Resolved, That the Committee of Ways and Means be instructed to inquire into the expediency of repealing the duty on foreign coal.

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Mr. F. said that, in offering this resolution, he requested the indulgence of the House while he endeavored to explain the reasons which induced him to solicit this inquiry—an inquiry into the inequality of burthens imposed by the present tariff—and of which the duty on the importation of foreign coal was the eminent instance.

THURSDAY, February 5.

Louisville and Portland Canal.

The House then went into Committee of the Whole on the state of the Union, (Mr. PATTON in the chair,) and took up the following bill:

"A bill in relation to the Louisville and Portland Canal.

"*Be it enacted, &c.* That the Secretary of the Treasury be, and he is hereby, authorized and directed to purchase, in the name of the United States, the shares of stock held by individuals in the Louisville and Portland Canal Company: *Provided*, That each share shall not cost a sum exceeding one hundred dollars.

"SEC. 2. *And be it further enacted*, That, when the said purchase shall have been completed, it shall be the duty of the said Secretary to appoint a superintendent of said canal, whose compensation shall be fixed by law, and whose duty it shall be to take proper care of the canal.

"SEC. 3. *And be it further enacted*, That the tolls to be received on said canal, after the stock thereof shall have been purchased in manner aforesaid, shall be so regulated as to be in no event more than sufficient to keep the same in good repair."

The bill having been read at the Clerk's table,

Mr. POPE, of Kentucky, moved an amendment, appropriating \$654,800 to the objects of the bill.

Mr. P. then addressed the House in support of the bill and amendments.

Mr. FILLMORE rose to inquire of the gentleman from Kentucky, (Mr. POPE,) whether the charter of the company did not require that its officers should be stockholders. If this were so, and the United States should purchase out the stock, the charter must be destroyed; for the company, owning no stock, could have no officers; and in that case, by what title could the United States hold the property, and by what authority could they exact any toll?

Mr. POPE stated that he had examined the charter, and that the difficulty suggested by the honorable gentleman from New York (Mr. FILLMORE) did exist; but it could be obviated by a conditional clause in the bill providing for the difficulty.

The question was now taken on the amendment proposed by Mr. POPE, appropriating the money necessary to make the purchase of stock, and decided in the negative—ayes 59, noes 71.

SATURDAY, February 7.

Relations with France.

The following Message was received from the President of the United States:

To the House of Representatives of the United States:

I transmit to the House of Representatives a report of the Secretary of State, accompanied with extracts from certain despatches received from the minister of the United States at Paris, which are communicated in compliance with a resolution of the House of the 31st ultimo. Being of opinion that the residue of the despatches of that minister cannot, at present, be laid before the House, consistently with the public interest, I decline transmitting them. In doing so, however, I deem it proper to state that, whenever any communication shall be received, exhibiting any change in the condition of the business referred to in the resolution, information will be promptly transmitted to Congress.

ANDREW JACKSON.

WASHINGTON, February 6, 1835.

DEPARTMENT OF STATE,

WASHINGTON, February 5, 1835.

To the PRESIDENT of the United States:

The Secretary of State, to whom has been referred the resolution of the House of Representatives of the 31st ultimo, requesting the President to communicate to that House, if not incompatible with the public interest, "any correspondence with the Government of France, and any despatches received from the minister of the United States at Paris, not hitherto communicated to the House, in relation to the failure of the French Government to carry into effect any stipulation of the treaty of the 4th day of July, 1831," has the honor to report to the President, that, as far as is known to the Department, no correspondence has taken place with the Government of France since that communicated to the House on the 27th December last. The Secretary is not aware that the despatches received from the minister of the United States at Paris present any material fact which does not appear in the correspondence already transmitted. He nevertheless encloses so much of those despatches, written subsequently to the commencement of the present session of the French Chambers, as may serve to show the state of the business to which they relate since that time, and also that portion of an early despatch which contains the substance of the assurances made to him by His Majesty the King of the French, at a formal audience granted to him for the purpose of presenting his credentials: and he submits for the President's consideration, whether the residue can, consistently with the public interest, be now laid before the House.

JOHN FORSYTH.

Mr. Livingston to the Secretary of State of the United States.

EXTRACTS.

PARIS, October 4, 1833.

SIR: On Monday I presented my letter of credence to the King, on which occasion I made the address to him, a copy of which is enclosed.

His answer was long and earnest. I cannot pre-

tend to give you the words of it; but, in substance, it was a warm expression of his good feeling towards the United States for the hospitality he had received there, &c. * * * * * As to the convention, he said, assure your Government that unavoidable circumstances alone prevented its immediate execution, but it will be faithfully performed. Assure your Government of this, he repeated, the necessary laws will be passed at the next meeting of the Chambers. I tell you this, not only as King, but as an individual whose promise will be fulfilled.

Mr. Livingston to the Secretary of State.

EXTRACTS.

PARIS, November 22, 1834.

I do not hope for any decision on our affairs before the middle of January. One motive for delay is an expectation that the Message of the President may arrive before the discussion, and that it may contain something to show a strong national feeling on the subject. This is not mere conjecture; I know the fact, and I repeat now, from a full knowledge of the case, what I have more than once stated in my former despatches, as my firm persuasion, that the moderate tone taken by our Government, when the rejection was first known, was attributed by some to indifference, or to a conviction on the part of the President that he would not be supported in any strong measure by the people, and by others to a consciousness that the convention had given us more than we were entitled to ask.

I saw last night an influential member of the Chamber, who told me that * * * * * and that the King had spoken of our affairs; and appeared extremely anxious to secure the passage of the law. I mention this as one of the many circumstances which, independent of official assurances, convince me that the King is sincere; and now I have no doubt of the sincerity of his cabinet. From all this you may imagine the anxiety I shall feel for the arrival of the President's Message. On its tone will depend very much, not the payment of our claims, but our national reputation for energy. I have no doubt it will be such as to attain both of these important objects.

Mr. Livingston to Mr. Forreth.

EXTRACT.

PARIS, December 6, 1834.

The Chambers were convened on the 1st instant, under very exciting circumstances; the ministers individually, and the papers supposed to speak their language, having previously announced a design to enter into a full explanation of their conduct, to answer all interrogations, and place their continuance in office on the question of approval by the Chambers of their measures.

This, as you will see by the papers, they have frankly and explicitly done; and, after a warm debate of two days, which has just closed, they have gained a decided victory. This gives them confidence, permanence, and, I hope, influence enough to carry the treaty. I shall now urge the presentation of the law at as early a day as possible, and although I do not yet feel very certain of success, my hopes of it are naturally much increased by the

vote of this evening. The conversations I have had with the King, and with all the ministers, convince me that now they are perfectly in earnest and united on the question, and that it will be urged with zeal and ability. Many of the deputies, too, with whom I have entered into explanations on the subject, seem now convinced that the interest as well as the honor of the nation, requires the fulfilment of their engagements. This gives me hopes that the endeavors I shall continue to make without ceasing until the question is decided, may be successful.

The intimation I have conceived myself authorized to make of the serious consequences that may be expected from another rejection of the law, and of the firm determination of our Government to admit of no reduction or change in the treaty, I think have had an effect. On the whole, I repeat that, without being at all confident, I now entertain better hopes than I have for some time past done.

Mr. Livingston to the Secretary of State.

EXTRACTS.

PARIS, December 22, 1834.

SIR: Our diplomatic relations with this Government are on the most extraordinary footing. With the executive branch I have little to discuss, for they agree with me in every material point on the subject of the treaty. With the Legislature, where the great difficulty arises, I can have no official communication; yet deeply impressed with the importance to my fellow-citizens of securing the indemnity to which they are entitled, and to the country of enforcing the execution of engagements solemnly made to it, as well as of preventing a rupture which must infallibly follow the final refusal to execute the convention, I have felt it a duty to use every proper endeavor to avoid this evil. This has been, and continues to be, a subject of much embarrassment.

My last despatch (6th December) was written immediately after the vote of the Chamber of Deputies had, as it was thought, secured a majority to the administration; and it naturally excited hopes which that supposition was calculated to inspire. I soon found, however, both from the tone of the administration press and from the language of the King, and all the ministers with whom I conferred on the subject, that they were not willing to put their popularity to the test on our question. It will not be made one on the determination of which the ministers are willing to risk their portfolios. The very next day after the debate the ministerial Gazette (*Les Débats*) declared that, satisfied with the approbation the Chamber had given to their system, it was at perfect liberty to exercise its discretion as to particular measures which do not form an essential part of that system; and the communications I subsequently had with the King and the ministers confirmed me in the opinion that the law for executing our convention was to be considered as one of those free questions. I combated this opinion, and asked whether the faithful observance of treaties was not an essential part of their system, and, if so, whether it did not come within their rule? Without answering this argument, I was told of the endeavors they were making to secure the passage of the law by preparing the statement mentioned* in my former despatch. This,

* The paper here referred to by Mr. Livingston is a memoir to be laid before the commission which may be appointed

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it is said, is nearly finished, and, from what I know of its tenor, it will produce all the effect that truth and justice can be expected to have on prejudice and party spirit.

The decision not to make it a cabinet question will not be without its favorable operation, * * *

* * * some of the leaders of the opposition, who may not be willing to take the responsibility of a rupture between the two nations, by breaking the treaty, when they are convinced that, instead of forcing the ministers to resign, they will themselves only incur the odium of having caused the national breach. In this view of the subject, I shall be much aided if, by the tenor of the President's Message, it is seen that we shall resent the breach of faith they contemplate.

It is on all hands conceded that it would be imprudent to press the decision before the next month, when the exposition will be printed and laid before the Chambers.

On the whole, I am far from being sanguine of success in the endeavors which I shall not cease to make for the accomplishment of this important object of my mission; and I expect with some solicitude the instructions for my conduct in the probable case of a rejection of the law.

I have the honor to be, &c.
EDW. LIVINGSTON.

HON. JOHN FORSYTH, *Secretary of State, &c.*

Mr. J. Q. ADAMS rose and said: I move, sir, that the Message, and the extracts from the despatches accompanying it, be printed, and referred to the Committee on Foreign Relations, with instructions to report forthwith on that part of the Message of the President of the United States which relates to this subject.

Mr. CAMBRELENG said that, after hearing the correspondence read, he hoped the gentleman from Massachusetts would withdraw that part of his motion which required the Committee on Foreign Relations to report forthwith. He trusted that, whatever measure might be finally adopted on this subject by the House, it would receive the unanimous vote of the House.

Mr. J. Q. ADAMS said, in introducing the motion to instruct the Committee on Foreign Relations to report on the subject of the Message forthwith, he was governed by the persuasion that it was inconsistent with the interest and honor of the nation to leave the subject longer unacted upon. He should not object to any amendment which the committee might propose, with a view to allow them time for the consideration of the subject. But he did think that it was important, as we were now within a few weeks of the close of the session, that the subject should be brought before the House without further delay. It appeared doubtful, from the correspondence which had been read, whether the Government of France would fulfil the stipulations of the convention. Mr. Livingston, in his letter of the 6th of December, uses very sanguine terms in relation to the success of the appropriation bill; but in a sub-

to examine the law, intended to contain all the arguments and facts by which it is to be supported.

sequent letter, of the 22d of December, he stated that the new ministry would not even propose to the Chambers to act on the appropriation as a ministerial measure. The ministers themselves, therefore, were not unanimous on the principles of the appropriation, and Mr. Livingston said that he was now far from being sanguine in the success of his endeavors to accomplish the object of his mission. Other reports (Mr. A. said) stated that there was no prospect of obtaining the appropriation. Under these circumstances, he thought it time for the House to take up the subject, as it was proposed by the President in his Message at the commencement of the session. Now, that it was so probable that the French Chambers would do nothing, it had become the imperious duty of the House to act on the subject. He was desirous that the Committee on Foreign Relations should make a report. He did not propose to prescribe what they should report; he only asked them to report.

Mr. ARCHER, of Virginia, expressed his surprise at the proposition for instruction coming from his friend from Massachusetts. When the House gave a peremptory instruction, such as was now suggested, for an instant report from a committee, what did such a proceeding import, and was considered in parliamentary usage as importing always? Why, that the opinion of the House was made up on the subject of the report, and that, therefore, it required no further inquiry on the part of its organ, the committee. This, he repeated, was the parliamentary, as it was the reasonable, construction. Well, then, what was the inference here, if the House yielded to the instruction? That itself, as well as the honorable member from Massachusetts, stood prepared to discard further suspense, under the information just communicated, on this most important subject of our relations with France, (the occasion of so much anxious deliberation,) and was now ready to act definitively! And how act? In a continued forbearance? If that were the course designed, no instruction was required; and, if designed, the instruction must lead to misinterpretation, given, as it would be on the instant, after the reading of unfavorable intelligence from our minister in France, as regarded the prospects of the treaty for execution, and accompanied, too, and introduced by such remarks as had fallen from the honorable gentleman from Massachusetts, certainly of no very forbearing and temperate character. The instruction, then, would be the declaration of a disposition on the part of the House to take a belligerent attitude towards France, or such a one as had been intimated in the President's Message, at the beginning of the session, which had just been referred to with so strong an inference of praise, prospective, at least, if not immediate. Was the House (Mr. A. asked) in this disposition? Did it partake the fervor which had been manifested by the gentleman from Massachusetts? He made open profession that he did not, for

one. He saw nothing in the extracts which had just been read from Mr. Livingston's correspondence, to call for any present departure from the course which he understood had been agreed on by a tacit but general consent, to forbear action on this business of the treaty, till we had heard from the action of the French Chambers on the subject. To the assurances, which were reiterated in the extracts just read, of the continued, sincere, united, and even zealous disposition of the French cabinet to give effect to the treaty, what information, of a different promise, was given in the last of these despatches calculated to awaken a flame and arouse to a precipitate and peremptory action on our part? Why, the whole would be found to amount to a diminished probability—a waning, though not extinguished expectation, on the part of Mr. Livingston, of the execution of the treaty. Mr. Livingston found from the court journal, and conversations with the ministers, that the execution was not to be made a cabinet measure, but to be left to the discretion of the Chambers. From any question of good faith or abatement of zeal on the side of the ministry to carry the measure? No! But from the difficulties of their ministerial position. They detail to him their purpose and plan to effect the object, and he himself thinks it of great force to operate on prejudice and party spirit.

Mr. CLAYTON, of Georgia, said: Feeling it my duty to vote against the gentleman's motion, and having, at the early part of the session, introduced a resolution embracing, in part, the same object, it might seem to be required, to save from the reproach of inconsistency, to offer some justification for my present course. The President's Message evidently presented two propositions: either to take no action upon the subject, or to authorize reprisals, which I then and now consider as a war measure. To avoid war, and acting under a solemn conviction that it was wholly unnecessary, and might be averted by prudent measures, I believe that a timely evidence, afforded the French nation, that Congress did not agree with the executive branch of Government, would restore the temper of the nation to that condition which existed prior to the Message; would remove from the deliberations of the French Legislature that passion, feeling, and warmth, so unfavorable to just and correct results, which that document was certainly calculated to inspire. This purpose of mine has been fully accomplished by the other branch of Congress. The unanimous vote of the Senate will effect, if any thing can do it, the object I had in view; and sure I am, if it does not, the progress of Congress in that direction, may as well come to a pause, and then it will be proper for us to consider the other proposition of the President. Until, then, the effect of the Senate's measure shall be known, I am unwilling to move any further.

Mr. McKINLEY said he was pleased to see the gentleman from Massachusetts (Mr. ADAMS) evince so becoming a spirit on the occasion;

and if he would delay his motion till a reasonable time was given to hear further from France, he (Mr. M.) would go with him for instructions to the Committee on Foreign Affairs, provided they would not make a proper report without. Mr. M. said that he was prepared to act decisively upon this subject before the adjournment of Congress. The gentleman from Virginia (Mr. ARCHER) urges forbearance towards our ancient friend and ally. He believes the King of the French sincerely desires that the treaty of the 4th of July, 1831, should be carried into effect; and that we ought not, therefore, to carry out the recommendation of the President, because it may lead to war; we ought not, he thinks, to involve the country in war for the sum in controversy. Sir, how long is this forbearance to be urged upon us? There have been four sessions of the French Chambers since the exchange of ratifications of the treaty. At the first the subject was not noticed; at the second, which lasted about four months, it was laid before the Chamber of Deputies, nineteen days only before the adjournment; the bill was referred to a committee, and there the matter ended; the next session continued about three months, and about fifteen days before its adjournment the subject was again brought to the consideration of the Chamber of Deputies, but not acted upon; and, finally, at the session in April, 1834, the question was fully discussed by the Deputies, and the bill containing the necessary appropriation rejected.

Mr. LITTLE said: Mr. Speaker, since I have had the honor of a seat upon this floor, it has never been my good fortune to listen to speeches in this House, or elsewhere, or at any time, or upon any occasion, in which I felt the same sensations which have been produced upon me by the proposition and appeal made by the venerable member from Massachusetts this morning. Sir, there was in it, to my mind, however it may affect the minds of others: I say there was in it to my mind, a degree of moral grandeur and sublimity which, as an American citizen, I was most proud and happy to see and hear. The ex-representative of the Executive department of this Government now aiding to the extent of his abilities, as a Representative upon this floor, in the councils of his country, and sustaining with the candor and undisguised patriotism of an American freeman, the spirit and proposition of his successful rival, the incumbent of the executive chair at this time; and upon what? Upon a proposition that the people of this country should vindicate their national pride and their national honor. What was the character of the proposition of the honorable gentleman from Massachusetts? Does it amount to a declaration of war, if adopted by this House? No, sir. It merely proposes to call upon the Committee on Foreign Affairs to make a report to vindicate this House from the imputation which, I insist with him, will rest upon it, of pusillanimously cringing to the juggling and caprices of a foreign

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potentate, who is unwilling to render that justice, over and over again proposed by himself, and admitted to be due to this country, and after four months of the session, for it is now the fourth month since the special call of the French Chamber of Deputies was made, with reference to the adjustment of this very claim; here we are, with what intelligence from France? Why, that your minister was first seduced into the belief, or assured into the belief, by the flourishes of Louis Philippe and his cabinet, that they really intended to enter, heart and soul, into this measure, and instantly carry the treaty into effect; that they meant to pledge the whole weight of the Government, and to throw themselves into the scale, and make it a national proposition. This was the purport of Mr. Livingston's first despatch. But what was the amount of his subsequent correspondence? Why, he grows less and less sanguine up to the date of his last communication, and finally tells us he is now not at all sanguine! That the French King and his cabinet, instead of making it a ministerial measure, and throwing the whole weight and popularity of the Government into the scale, have shuffled out of the controversy, and left it as an open matter, in the decision of which they have no special interest. Now, let me ask the members of this House, what pledge they will wait for after this shuffling course, before the close of this session? Can they, after this, expect to receive intelligence of a more grateful character? Or may they not reasonably calculate upon hearing, by the first vessel that may arrive from Europe, that this nation, which has thus long procrastinated the payment of a just claim, has determined not to pay it at all? And having come to that conclusion, and knowing that war is inevitable, may we not expect her to take the first step, and, as a matter of safety to herself, detain our ships now in the Mediterranean, and blockade the ports there? Well, what are we asked to do by the proposition of the honorable member from Massachusetts? Nothing more than that, in the event of their refusing, before the adjournment of this House, to ratify this treaty, the House will pledge itself to answer the call of the President of the United States, by giving him power, or resorting to some other means, in the event of this contingency, to save the nation, and protect its honor and the just claims of its citizens from the aggressions of this insolent and juggling power. Sir, when I hear the appeal from such a quarter, echoing back the same spirit, so highly and properly lauded on the part of the Executive, by one grown gray in diplomacy, and familiar with the tricks of courts; by one who has a just, a high, and an honorable sense of his own character, and the character of the American people; I say, sir, there is no room left for me to doubt of its propriety at this time. I say, sir, now is the time, and if I, for one, were certain that a messenger would arrive this very night, with intelligence that the French Chamber had acted

upon this subject, I would still urge the adoption of the resolution of the gentleman from Massachusetts. It goes the whole to show abroad the sense of the American people in reference to this matter. It goes the whole to show that, if it is the intention of France to suffer this Congress to pass over, before any intelligence of a satisfactory character should be received, the Representatives of the American people are not slumbering at their posts, but are aroused at the prospect of injury and insult, and, by an expression of some sort of the character referred to by the gentleman from Massachusetts, that they are prepared to vindicate the character and honor of the country, and let the world know that that power which attempts to cavil with, to special plead with, to juggle with the United States of America, have made a serious, and, for them, an unfortunate mistake. That we are prepared to go the whole for the spirit, if not the measure, of the proposition in the executive Message; and that we will stand by and sustain the President therein; that we will make it a common cause. That will be done, and I hope now, upon the proposition of the gentleman from Massachusetts; and I trust the matter will be referred by the unanimous vote of this House. What valid objection can be urged against it? It does not contain a proposition for immediate action; it only anticipates that which I believe will come; and in the event of its coming, we should then have the vantage ground, and be able to show that, even before it arrives, we were in a state of preparation to meet it. It is a delicate, but a well-timed and judicious proposition, and one that I hail as an American freeman and a Representative of this body, from the bottom of my soul, especially coming from the quarter it does. I again reiterate the hope, that the resolution, as worded, will be unanimously adopted.

Mr. SUTHERLAND observed that he was as much pleased as the gentleman from Ohio to find that, in this contest, they should have the powerful aid of the very distinguished gentleman from Massachusetts. He had rejoiced to hear the noble sentiments to which that gentleman had given utterance. Yet, while he could not but approve of the elevated and patriotic feelings which that gentleman had manifested, he was not quite ready to go with him at this particular time. If we were to have any contest with France, he wanted to secure for this country the vantage ground. This he would do, not by pressing such a question at this moment. He would wait till he had received definite information as to her final determination. For, after all, France was, and had been, our friend and ancient ally. He would speak of her in the language of the President, and he would wait till the very last hour, that he might give her a chance of saying whether she would or would not pay this debt. He had been asked by the gentleman from Ohio, (Mr. LYTLER,) whether he expected to receive any favorable intelligence. In reply, he would say, that every

wave carried hope upon its bosom. The French Government might yet send us a message worthy of France. But if not, then he was ready to go with the gentleman from Massachusetts, with the gentleman from Ohio, and with every other gentleman in the House, in the high road of honor, and maintain the glory of our country. He had believed with the President, that, as we had asked nothing but what was right, so we ought to submit to nothing that was wrong. France, however, had assembled the Chamber of Deputies at an earlier period than usual, and it was possible that something might yet be done in time. In the meanwhile, Mr. S. wanted no report from the committee. To one thing he was ready to pledge himself: not to leave that hall till the honor of the country was vindicated in some form. If nothing else should be left them but to go to war with France, he should do it most reluctantly. He was for giving her the very last chance of an amicable settlement. He was not for forgetting ancient times, and the recollections of the Revolution. If, however, the French nation supposed that, because she had once been our ally and friend, we never would go to war with her, do what she would, she would find herself mistaken. Still, he would wait till almost the very close of the session.

Mr. HAMER, of Ohio, said that he did not rise to make a speech. He did not doubt that gentlemen around him understood the subject quite as well as he, and much better; and that all were prepared to act whenever the proper time should arrive. But on the question of time, there was a difference of opinion. All things, however, indicated, in the meanwhile, that the national honor was safe. He entertained no fears as to the House or the country. He regretted to differ from his friend and colleague on the left, (Mr. LYLL,.) especially on a question of such deep importance. But the reading of the documents which had been communicated to the House had had an effect upon himself directly opposite to that which they seemed to have had upon his colleague. To him it was perfectly obvious that two things must take place before the House could go to their committee and demand a report. The memorial which had been prepared by our minister ought first to have been presented to the Chamber of Deputies, and the action of that body with respect to it known; and, in the second place, the Message of the President to Congress should have reached France, and the effect of that message upon the national councils should also be known. It was probable that in a few days intelligence on both these points would be received, and until then he considered it as imprudent and impolitic to call upon the Committee on Foreign Affairs to report to the House any measure whatever for its adoption.

Mr. H. thereupon moved to amend the motion of Mr. ADAMS, by striking out so much of it as went to instruct the committee to report forthwith.

Mr. STEWART said he had not risen to make a speech, but to offer an amendment to the motion of the gentleman from Massachusetts, chiefly with a view of thereby obtaining greater unanimity. It must be admitted by all that, in a case of this kind, unanimity was of the utmost importance. The efficiency of the action of the House would in fact depend in a great measure upon it. The nation ought to present a united front. Divided councils could not be productive of any good result. Mr. S. had heard no objection to the proposition of the gentleman from Massachusetts, whose patriotic sentiments must command the approbation and the admiration of all. Yet, he could not but think that requiring the committee to report forthwith might be considered as somewhat premature. He would therefore take the liberty of suggesting to the honorable gentleman from Massachusetts to modify his motion, by striking out the word "forthwith," and inserting, in lieu thereof, the words "on or before the 15th," or perhaps it would be better to say the "30th of the present month." This probably would meet the views of the gentleman from Ohio, (Mr. HAMER,) and would be more likely to be adopted with unanimity by the House, than either the original proposition or the amendment proposed.

Mr. CAMBRELENG observed that, if the other branch of the Legislature had, at the commencement of this matter, assumed a bolder and a firmer stand, it would have been more consistent with the true dignity of that House and the honor of the nation. Unfortunately, the Government was divided. Some gentlemen were in favor of waiting and forbearing, in the hope that such a course would be attended with the happiest consequences. For his own part, he had been ready, from the first, to respond to the spirit and sentiments of the President's Message, and either to adopt the measure recommended, or some other which should go to show to the French nation that this Government has determined to enforce the rights of its citizens; for, Mr. C. thought that, after years of insult on the one side, and forbearance on the other, farther forbearance would no longer be a virtue. In now requesting the gentleman from Massachusetts to permit this question to rest for the present, he was actuated only by a desire that, when the House did act, it should act unanimously—that it should speak but with one voice.

Mr. C. did not wish to advocate the measure which had been recommended by the President, because it was impossible at this time to obtain an undivided vote in its favor, and he therefore asked the House for some delay, in the prospect and hope of greater unanimity. He trusted that both branches of the Legislature would eventually come to one and the same ground. He now said to the gentleman from Massachusetts (Mr. ADAMS) that he was as anxious for a discussion of this important subject as that gentleman. He felt that on this question every moment of delay was infringing upon the pe-

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riod which ought to be given to debate and consideration, but he was influenced by the high consideration of the importance of unanimity. He liked the suggestion of the gentleman from Pennsylvania, (Mr. STEWART,) and preferred it to the original motion; but if the gentleman from Massachusetts would consent to allow the committee a little time longer to consult, the House would be deliberating, as the nation was every day deliberating, on this important subject. The result he felt inclined at once to fear and to hope for. It seemed to him that war would become inevitable sooner or later; but, be this as it might, any half measures would put the country in a worse situation than an exhibition of decision and spirit. He hoped that by the 20th of the month, if not before that time, the committee would be prepared to report, when the gentleman from Massachusetts would have an opportunity of fully submitting his views. He trusted that gentleman would consent to withdraw his motion; but, if not, then that some proposition resembling that which had been proposed by the gentleman from Pennsylvania (Mr. STEWART) would be adopted by the House.

Mr. PATTON. (Mr. P.'s remarks were frequently indistinctly audible at our reporter's desk.) Mr. P. was understood to say he had not, in the slightest degree, changed his opinion with regard to the propriety of a prompt and immediate report from the Committee on Foreign Affairs, upon the matter under consideration; but entertained the opinion, with unabated conviction, that it was their duty to the House, to the country, and eminently so to the President of the United States, whose opinions and recommendations upon this great subject had been committed to them for deliberation, that the committee, which constituted a merely incipient organ of the House for digesting materials for its action, should not delay one moment, after their own opinion and judgment had been formed upon the materials committed to them, in reporting their resolutions and deliberations for the concurrence, or for the disapprobation of the House. Entertaining that view, and entertaining, moreover, the belief—a belief deeply impressed upon his mind by the information communicated that morning, the material parts of which were before within the knowledge of the Committee on Foreign Affairs—that it was utterly hopeless to expect any decisive information from France, as to the action which would take place in the French Chamber of Deputies upon the bill making appropriations for carrying the treaty into effect, until after, or until very near the close of, the present session of Congress, he did then conceive, and he now conceived, that this subject ought to have been before the House for its deliberation upon the principles involved in the President's Message, as well as upon the expediency and propriety of the particular measure of redress he proposed, and the expediency or propriety, at that time, of resorting to any measure of redress

whatever. However his own opinions might differ from those of any other, or all the members of the Committee on Foreign Relations, upon that subject, it was, he humbly conceived, a matter that belonged not to the committee to decide or to conclude. It was not, he conceived, for them to forestall, but it belonged peculiarly to that House, unaffected and uninfluenced by the action of any other branch of the Legislature of the Government: it belonged to the popular body, to the immediate Representatives of the people of this country: it belonged to them in a peculiar manner, that, as soon as they had maturely deliberated upon the materials presented for their judgment, they should say to France, and to the country, what their opinions, what their feelings, what their course, were to be upon this matter. As it was then presented, how did the facts stand? Mr. Livingston's despatch of the 22d of November showed that, according to the information obtained by him in Paris, the bill which the French King (Mr. P. had no sort of doubt, with the utmost sincerity, for he did not take the King's declaration in the literal sense of the terms in which it was couched) had declared his determination to present to the Chamber of Deputies, as soon as it could be reasonably and judiciously presented, would not be presented to the Chamber for its consideration until the middle of January. All the information we have subsequently received, either from Mr. Livingston or from any private sources, went to satisfy us that this impression was correct, and that, in all human probability, instead of being presented earlier, it would not be till a later period. This was a question which, knowing as we did the feelings and opinions, and the conflict of opinions existing in France, and in the Chamber of Deputies, on this subject, would not be, could not be, promptly and immediately disposed of. And every one knew that, if the subject was not presented to the Chamber before the middle of January, it could not possibly receive the definite action of that body early enough for us to obtain any information of their definite action until the close, or near the close, of the present session of Congress. Mr. P. could not therefore perceive the propriety for further delay, nor did he the other day, when he offered to that House, and asked permission to present, for its adoption, certain resolutions containing the principles and opinions upon which he was prepared to show to the House that it was time the subject should come under its deliberation. More than two-thirds of the session had elapsed, and only three weeks of it remaining, and there was just time enough that this subject, which was calculated to produce much conflict of opinion, and a great variety of propositions, as to what ought to be the course adopted, should be brought before this body, whose deliberations we all knew could not be promptly brought to a conclusion; they should have it in their power fully to deliberate upon the principles it involved, and as soon as they had come to an

opinion, to express it in the form of resolutions or in the form of action. If there were any who, upon deliberation, should be of opinion that at that time it was prudent, proper, and necessary, to have action, it might be taken.

Mr. E. EVERETT said: I have been in favor of the committee's reporting forthwith, from the beginning of the session. I thought it very important; highly desirable to do so. So much time has since elapsed, and the difference between reporting forthwith and reporting at as late a period as it can well be done, is so inconsiderable, that I attach less consequence to it than I did. At the commencement of the session, I thought an immediate report from the committee would have done great good. It was precisely a prompt and bold course which I desired. I was not for war, nor reprisals, in the state of affairs then existing; and we are now told that neither of these measures was contemplated by any member of the House. What, then, could we have done promptly and boldly? We could have done this: We could have taken up the subject as one of eminent importance, admitting no delay in the consideration of the House. We could have shown the justice of the American side of the question, in the strongest terms. We could have uttered the feeling and views of this House, in the strongest and most emphatic language.

I have said already, sir, that my anticipations of the satisfactory adjustment of the business are less sanguine than they were. There are, however, some reasons for hope that the French Chambers will make the appropriation this winter. One of the chief reasons is, that the Chamber of Deputies of last year contained some members by no means entitled to the compliment paid to them by the gentleman from Kentucky, (Mr. JOHNSON,) of having understood the question thoroughly, and not having rejected the appropriation through ignorance. On the contrary, sir, there was exhibited, in my opinion, an entire ignorance of some of the most important facts of the case, and, in reference to the most important of them all, a gross, not to say a discreditable ignorance, which I believe proved fatal to the passage of the appropriation bill, and which, should the two countries most unhappily be brought into collision, will throw a tremendous responsibility on those members.

You are aware, sir, that, on all sides, it was admitted that something was due to the citizens of the United States, and that it was merely on a question of how much, that the great issue of annulling or executing a treaty was made to depend. In this state of the controversy, and just as the question was about to be taken, members arose in the French Chamber, and stated that, of the five millions of indemnity provided by the treaty under discussion, two millions, covering the St. Sebastian's cases, had already been paid under the Florida treaty between the United States and Spain! The assertion was immediately contra-

dicted by the Minister of Foreign Affairs, whose exposition of the whole question was one of the most masterly parliamentary efforts I have seen. His contradiction was direct and positive, as to its purport; but, if one may judge from the report of the debates, (very likely imperfect,) it was less decided and authoritative in manner than could have been desired. At all events, I have been told, by an intelligent American gentleman who was present on the occasion, that these statements were evidently fatal to the bill. The question was taken immediately after. It was lost by only eight votes.

We know, sir, that deliberative bodies may be taken by surprise, by plausible statements. Were we ourselves about to appropriate five millions of dollars in payment of an acknowledged debt, and should member after member rise, with a treaty in their hands, maintaining that two of the five millions had been already paid, and read us passages of the document to prove it, and if any thing short of the most positive contradiction, accompanied with the most satisfactory explanation, were given, it would very likely prove fatal to the bill; certainly so, if the House were almost equally divided before. For these reasons, as I said, I rely something on the fact that the bill was rejected last winter, not in a full understanding of the facts, as the gentleman from Kentucky seemed to think, but in an entire ignorance of the most important of them all. And when the memoir, which has been mentioned in Mr. Livingston's despatches to-day, shall have proved to the French Chamber, (as I presume it will do, from the character of some of the documents which, during the recess of Congress, have been furnished to the French Government at its request, by ours,) that the statements I have alluded to were utterly destitute of foundation, that the St. Sebastian's cases were all rejected by the commissioners under the Florida treaty, as not included in its provisions, and that they have been all admitted by the commissioners now sitting under the present treaty, as notoriously provided for by that treaty, I trust it will not be without its effect.

But I do not build with entire confidence on this, or any other ground of encouragement. I see something ominous in the character and composition of the opposition to the King and his ministry on this question. What did the King tell Mr. Livingston? That he might rely upon his honor as a King, and his promise as a man, that the treaty should be executed. For myself, I place the most unqualified dependence on this assurance. I believe that, as far as his influence extends, it will be strenuously exerted; that his constitutional powers will be strained to the utmost, to procure the execution of the treaty. But what, sir, is the melancholy truth, as to the condition of the King's Government? I would not in wantonness say any thing disparagingly of the internal condition of

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affairs in a country between which and our own the relations of amity still subsist; but when our own rights and claims are made the sport of the state of parties in a foreign country, it is a fair subject of comment. The King will do his utmost to effect the fulfilment of the treaty, and not merely because it is a just treaty, but because (as he told Mr. Livingston) his faith as a sovereign, and his honor as a man, are pledged. But what is the position of the King himself? Does not all the world know that he does not fill the throne on the principles of what is called legitimacy? That there are two powerful parties in France, agreeing in nothing else, but united in opposition to the present establishment of the Government? I mean, of course, the party of the late dispossessed family, on one side, and the extreme liberals on the other. It is, as far as we can judge at this distance, mainly a combination of these two parties, taking along with it, of course, the natural opposition to all heavy money bills, which has hitherto defeated the execution of the treaty.

With these two parties, instead of our gaining strength from the circumstance that the King's regal word and personal honor are pledged to fulfil the treaty, it is precisely for this reason that they oppose it. And they oppose it, not with a zeal measured by the simple merits and consequence of the treaty, but with an intensity of purpose, and depth of feeling, inspired by their hostility to the Government. Seeing the opposition to the treaty thus conducted by parties, who would move heaven and earth to shake the King from his throne, I own, sir, I look to see this question linked in with the very elements of the permanence of the present order of things in France. Could it be reduced simply and solely to this issue, all might be well; but with this powerful, deep-seated, far-reaching opposition, we must fear, as I have said, that what may be called the natural opposition to all such measures will unite itself. The King will do every thing to carry the treaty into effect. I am sure, if it were necessary, he would shed his blood to fulfil it. I should hear with deep regret a single word that would cast a shade of doubt on his sincerity. But whether he will even be able to sustain himself, who shall vouch? I trust he will. I believe it highly desirable for the peace of France, and the harmony of Europe, that he should. I have little doubt, should his Government be overturned, it would be followed by disastrous consequences, not unworthy the high breach of faith toward the United States, with which the war against it seems to have commenced.

Mr. GILMER, of Georgia, said that he felt himself called upon, by the remarks which had fallen from the honorable gentleman from Massachusetts, (Mr. ADAMS,) as well as by the motion which he had introduced, requiring the Committee on Foreign Affairs to report at an early day, to present the reasons why he could not

accord in opinion with that gentleman, nor vote for the motion which he had made. The proposition of that gentleman was founded on the belief that the House was bound in honor and policy to act upon the French question during the present session; and that, unless the committee should report by Monday week, the session was in danger of elapsing without any due discussion of the subject or action upon it. If Mr. G. believed in the supposed necessity, he should certainly approve and vote for the motion; but if it was true that the House could not and ought not to act upon that subject at all, then the motion was improper, and ought to be rejected. Why was the House bound to act? Because it was in possession of all the facts which were necessary to enable it to act definitively in the case? Surely not; and if the House did not possess the facts it ought not to act, because it was improper to act without them. Might it not happen that, at the time pointed out, the House would still be without the requisite information? So far as they could now see, nothing was more probable. And how, then, could it, with propriety, act at all? The course to be pursued depended on the state of this question: has the French Government refused to carry into effect its treaty with the United States? The House could act on no other ground, and all the threats about what we would do, and all pledges given beforehand, as to the course to be adopted, were untimely, impolitic, improper, and calculated to do nothing but injury. The question of peace or war was an important one. It was the greatest question on which the nation had to pass. It not only touched the public honor and interest, but it came home to the concerns of every citizen. On such a question, why did gentlemen urge the House to act before it could act understandingly? Were they not all agreed that the Government of this country was so constituted that we ought never to go to war but after the greatest practicable forbearance? Was not peace our avowed policy? Why, then, should we enter into these premature discussions? The reflections and menaces thrown out under such circumstances, were unworthy of the House and injurious to the character of the nation. He had heard much said about the national honor, and about the necessity of vindicating the national honor. But, after all, what were the rules of this national honor, of which gentlemen spoke so much and so loudly? By what was it to be regulated? It might do when crowned heads fell out about questions of personal dignity, or interest, to talk about rules of honor, and about being bound by their honor to resent each other's acts. But the principles which actuated and governed this nation, and which, he trusted, would ever guide this Government, were not the capricious rules of a fancied honor, but the doctrines of national law. If war should come, gentlemen would find that it was not to be carried on by flourishes of rhetoric.

TUESDAY, February 10.

Deposit Banks.

On motion of Mr. POLK, the House then proceeded to the consideration of the bill regulating the deposits of the United States in certain local banks.

Mr. POLK addressed the House in explanation of its provisions, and in favor of its passage. The bill which has been read, said Mr. P., is substantially that which passed the House at the last session of Congress, but failed in the Senate. Upon a careful review of the provisions of the bill of the last year, the committee found but few points, in their judgment, requiring change or amendment. These will be presently stated.

After the full discussion of the last year, the subject to which the bill relates, and the objects proposed to be attained by it, must be familiar to every gentleman; and it will only be necessary on this occasion to present a few prominent facts, with the conclusions to which they necessarily give rise, to satisfy not only the House, but the country, that the present financial system is no longer to be regarded as an experiment. Through the agency of State banks, the fiscal operations of Government have, during the past year, been eminently successful. The collection of the public revenue, and the transfer of funds to distant points for disbursement, have been made by the deposit banks—promptly, efficiently, and without charge to the public. Nothing has been lost to the Treasury, and no part of the public service has suffered inconvenience by the employment of these agents. All this has been done, not only without the aid of the national bank, but against its power, and in defiance of its efforts to cripple their operations, to distress the community, and embarrass the Treasury. Connected with this, the state of the general currency is found to be in as sound a state as at any former period. The fiscal operations of the Government have been conducted, during the past year, as they had been previous to the existence of the present Bank of the United States, by means of arrangements made with the local banks, in pursuance of the discretionary power created by the laws in the executive department. It was deemed proper, however, for Congress to limit and define this discretion as far as by law it could be done, as well as to provide additional guards and securities for the public money; and for that purpose the bill of the last session, as well as that now under consideration, had been brought forward.

The question was now put, and decided by yeas and nays, as follows—yeas 109, nays 99.

FRIDAY, February 13.

Relief of Citizens of Arkansas.

The bill for the relief of citizens of Arkansas who lost property by a treaty with the Choctaws, was taken up.

Mr. VINTON, of Ohio, went into a history of the circumstances of the case, and remonstrated against rewarding, with a donation of one hundred and sixty acres, men whose only merit was the having trespassed on the public land, and refused to leave what they had seized, until compelled by military force.

SATURDAY, February 14.

Post Office Reports.

Mr. BRIGGS asked the consent of the House to take up the motion which he had offered yesterday, to print 25,000 extra copies of the reports of the majority and minority of the Post Office Investigation Committee, together with the accompanying documents.

The question being on the adoption of the resolution,

Mr. SPEIGHT, who had yesterday moved to print 10,000, said he was not aware when he made that motion that the documents were so voluminous as they in fact were. He was satisfied that they could not be printed within any reasonable time, and that they must be divided into different parts. When it was considered that the newspapers would publish such parts as they chose of the reports and documents, and that in that way they would obtain a general circulation, he thought a much less number of copies than that which he had proposed would be deemed sufficient. He moved 5,000 copies.

A long debate ensued, and finally, Mr. BRIGGS modified his motion so as to propose 3,000 copies of the reports with the documents, and 20,000 copies of the reports alone. In this form the resolution was adopted.

MONDAY, February 16.

Abolition of Slavery in the District of Columbia.

Mr. EVANS presented the petition of a large number of citizens of Waterville and Vassalborough, in the State of Maine, praying for the abolition of slavery in the District of Columbia; and stated, in brief terms, his acquiescence in the general sentiments and objects of the memorial, and his hope that, at no distant day, the attention of Congress would be given to the subject; and that, so far as he could tread on firm, constitutional ground, he should go promptly and unhesitatingly. The subject was not free from difficulties, but he trusted they would all be overcome by the wisdom, perseverance, patriotism, and philanthropy, which Congress might bring to its consideration. As other similar memorials had been already referred to the Committee on the District of Columbia, he moved the same reference of this, in the hope that the committee would, at some early period, present a report.

Mr. PHILLIPS said he was about to present a

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memorial in favor of the abolition of slavery in the District of Columbia. It was signed by 1,349 male citizens, who are all represented to be legal voters, and also by 2,648 ladies, of the county of Essex, in the State of Massachusetts. These memorialists, said Mr. P., are many of them known to me to be of the most respectable character and standing. They respectfully and earnestly entreat the attention of Congress to the object to which their memorial is confined. The sentiments which they utter are just, humane, and patriotic; the motives by which they are evidently actuated are commendable; and the object which they seek may be accomplished, and can only be accomplished, by the action of Congress. Upon these grounds their memorial is entitled to consideration; and I owe it to them and to the House to declare that, while I am opposed, from my own conviction of what is constitutional, just, and expedient, to any interference on the part of the General Government, or of the free States, with the exclusive rights, interests, and duties, of the slaveholding States, I am equally convinced of the constitutionality, expediency, and justice, of a suitable provision by the General Government for the abolition of slavery within the District of Columbia. So far as slavery exists within any of the States, it is for them, upon their own responsibility, to determine when, and in what manner, it shall cease to exist there; but so far as it exists here, and is exhibited before our eyes in its worst forms of degradation and cruelty, the right and duty belong to Congress alone of restraining or abolishing it. Towards the abolition of slavery within the States, I am only desirous that the General Government, at a proper time, should contribute to the extent of its ability such aid as may be acceptable, and can be judiciously applied; but in respect to the object which this memorial discloses, I cannot doubt that there are existing evils which require a legislative remedy at our hands, in such form as our wisdom may devise. I cannot doubt that a period must arrive when the continuance of slavery within this District will be regarded, in its obvious aspects, as disgraceful to the nation, contrary to public opinion, and subversive alike of the rights of slaves and the interests of free citizens. That period, in my humble judgment, will have arrived as soon as the facts and arguments contained in such memorials as this shall obtain a dispassionate, candid, and deliberate investigation.

Mr. P. said that he would desire a reference of this memorial to a select committee; but as such a reference had been already formally refused in a similar case, he would content himself for the present with asking that it should be laid upon the table.

Mr. DICKSON presented the memorial of sundry citizens of Rochester, in the State of New York, praying Congress to take the proper measures for abolishing slavery within the District of Columbia; which he moved be laid on

the table and printed, together with the names attached to the same.

Mr. BOULDIN said that he had not supposed he would vote for the printing of this memorial until he heard it read. But, after having heard it read, he should vote for printing it; not because he approved of the presenting of it, or of the object of it; nor that he dissented from the general propositions about liberty and slavery in it; but because he wished his constituents to know what feelings were entertained by their Northern brethren (some of them) of slavery and slaveholders, and the means of abolishing slavery.

He said he was unwilling to draw any comparisons between the country he had the honor in part to represent, and any other portion of the Union; but every remark about slavery, slaveholders, and slave markets, made in that memorial, in relation to this District, applied equally to the habits, customs, and legal rights, of the people of all the South. He wished them to see what those opinions and feelings were; and therefore, and for that only, he should vote for printing the memorial.

Mr. FILLMORE said, as it was understood that the Committee on the District of Columbia would not act on this subject at the present session, it was certainly due to the petitioners that the motion which had been made by his colleague (Mr. DICKSON) should prevail. It was not unreasonable that the memorial should be printed, and preserved among the documents of the House. He disavowed, most unequivocally, now and forever, any desire on his part to interfere with the rights, or what was termed the property, of the citizens of other States. While he did this, he conceived that, as a citizen of the State of New York, and a member of this House, he was interested in the claim to property in man within the District of Columbia. He referred to the effect which was produced in the North by the advertisements in the papers of this city connected with the purchase and transportation of slaves. The people of that section of the country believed slavery to be improper, and that it should not be tolerated. This was a great national question. There was nothing in the memorial which should prevent its being printed and placed on the files of the House, for future reference. Whenever petitions should be presented here from the slaveholding States, of a different tenor, and which might advocate the establishment or continuance of slave markets in this District and city, if they could satisfy the people of other sections that this was proper, he would treat their petitions with respect. He was willing that each party should be fully heard, and that each should have the privilege of spreading their views before the people generally.

Mr. McKINLEY regretted that this discussion had sprung up. He thought it manifested more zeal than prudence. He inquired if the print-

ing was intended to enlighten the House or the country? It was admitted on all hands that no action was to take place upon this subject at this session. That being the case, what object would be attained by printing this memorial? He considered it one of the most impudent memorials which had ever been read in this House. It was a firebrand from one of the Northern States, which had been thrown into this House, and he was, for one, opposed to giving it any publicity. He denied that this House had the right to lay their hands upon his property, let him live where he might. There was no disrespect intended to the memorialists by refusing to print their memorial. It had been received by the House, and that, he contended, was sufficient. Nothing more ought to be expected. He cared not whether it had come from a mayor of a city or the President of the United States, he should oppose the motion to print.

Mr. PARKER was at a loss, he said, to perceive how the mere reading and printing of the memorial could produce unpleasant feelings in that House or in the nation at large; nor was it, in his opinion, calculated to throw a firebrand into the slaveholding States. It appeared to him to be more like a respectful address to the House, calling upon them to exercise the undoubted privileges conferred upon it by the constitution, of legislating for the District of Columbia, in removing what the petitioners considered a great and existing grievance; and, if it was intended or wished to prevent any debate, it could be easily obviated by withdrawing the question of reconsideration. What was the state of the subject; what had been done heretofore; and how did the matter then stand? A portion of the people of this country, considering the evil a national one, as one that ought not to be tolerated by a free people, respectfully ask that House to take measures to redress the evil. Petitions of this nature have been referred to the committee intrusted with the management of the affairs of the District, not only the present session, but the last and several preceding sessions. Now, the prayer of the petitioners was either right or wrong, and their reasons either forcible and conclusive, or otherwise. Let, then, the Committee on the District of Columbia make a report, and tell us what they think ought to be done, and give us their reasons, so that the House might judge of the question. Mr. P. was not prejudiced one way or the other; but he thought an answer to the prayer of the petition should be given, for it was neither unlawful nor unrighteous.

Mr. DICKSON then withdrew that part of the motion proposing to print the names of the subscribers to the memorial.

Mr. OLAY said he was even more opposed to the printing of the memorial itself than he was to printing the names appended to it, which he regarded as a matter of little consequence com-

pared with the other. He was decidedly opposed to the publication of such a document. In spite of all the fair professions heard there upon the subject, as to any non-interference with the rights, interests, and property of the Southern States, or any other property of this kind, gentlemen must be forgetful of the domestic policy and every thing else concerning the peace and tranquillity of those States, when they ask for the printing and publication of a document like the one under consideration. Are these gentlemen ignorant that the printing and publishing of documents of this kind, in almost all the Southern States, are prohibited under high and heavy penalties? And would they compel, or at least sanction, the publication of documents by Congress, for doing which, if a Southern tribunal could lay their hands upon a printer doing the same on his individual responsibility, he would be treated and punished as a culprit? Do they call this non-interference with the rights of property, where slavery prevailed? Gentlemen might disclaim any intention of interfering with this subject; but when he heard such disclaimers as those made by the gentleman from New York, covered by so thin a veil as he had employed, Mr. C. could not yield his assent to them. The gentleman told us that this was a subject he had no intention of interfering with, while at the same time he called it a great national question, and consequently, one that ought to be agitated in that House. Was it not a subject against which Southern people should decidedly protest? And was it not one calculated to excite the most direful calamities in that portion of the Union whence Mr. C. and many of his friends came?

Mr. O. P. WHITE moved to lay the motion to reconsider, and the memorial itself, on the table.

Mr. GHOLSON appealed to the gentleman from New York, (Mr. WHITE,) to withdraw his motion; for the people of the South were very anxious to know the feeling of the House upon the subject, and he hoped to see it expressed by a direct vote.

Mr. O. P. WHITE said, to meet the views of the gentleman from Virginia, he withdrew the motion to lay the subject on the table, and moved the previous question.

The second to the previous question and the main question were both agreed to, without a division.

The question then occurred on reconsidering the motion to print the memorial, on which the yeas and nays had been ordered, and it was decided as follows—yeas 125, nays 81.

Mr. WISE said: Although I have my feelings, my prejudices, my passions, and my fixed principles and determination, as a Southern man, on this subject, yet I hope I can discuss it without excitement. I rise not, sir, to throw, as some others have thrown, a firebrand amongst us. I rise simply to state to my constituents,

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and the country at large, the true state of feeling, and of the case as it exists here, in the North and in the South.

I trust I am well assured that the Representatives on this floor from the North do not wish or design to interfere with our rights. That they merely feel bound in their representative duty to present these memorials, so dangerous in their tendency, and incendiary in their character, from respect to a few, a very few only, of their constituents, comparatively, and that they do not act from their own impulses.

Sir, on this delicate and vitally important subject, the moderate, considerate, and patriotic men of the South, as well as of the North, have enemies to contend with. In the North we have a few misguided fanatics, whose zeal prompts them to rush blindly into the most absurd extremes; and in the South, I am sorry to say it, there are not wanting those who seize upon every pretext to inflame the public mind on the subject of slavery. In this delicate situation, what should be the course of the friends of our country and our institutions? Why, sir, the friends of good order, of the constitution, and of the existence of this Republic, in this House or out of it, in the North or in the South, must use their influence to moderate and quench these spirits of both extremes of fanaticism and of disorganization. When memorials of the character of this now asked to be printed are presented, it is respectful enough, I should think, to the memorialists, to receive them; if printed, they will be circulated throughout the country, to fan the flames of the zealots on one side, and to serve as food for the disorganizers on the other. We, who would be safe and secure in the blessings we now enjoy, will, therefore, smother these memorials on their first presentation. I am willing, sir, to treat all memorials, no matter how extravagant or preposterous, or of what character, with respect, provided they are from a respectable body of citizens, decorous, and not dangerous in their tendencies. But, sir, I cannot tolerate, much less give consequence and eclat to memorials and petitions which strike at the very foundations of the social compact and our civil institutions. I will not hear them; I desire not to see them; and would reject them at once. With what sort of respect, I put it to the gentleman from the western part of New York, (Mr. FILLMORE,) could he treat an incendiary who should respectfully ask him to permit him to apply a torch to his dwelling? Would he regard him as a sober-minded neighbor or madman? as a fiend or friend? Sir, I was sorry to hear some of the remarks of the gentleman from New York. He says that the people of the North are continually shocked by advertisements of slave-dealers in the papers of this District. I am sorry, sir, that their nerves are so delicate, when their fathers did more than any other people of the colonies to establish slavery amongst us. And I appeal to Southern gentlemen for the truth of the remarkable fact

that the emigrants from the North to the South, some from the gentleman's own district, perhaps, are as ready to become masters as any who are hereditary masters. To strengthen their nerves and change their whole principles and opinions on the subject, they have but to change their climes, their homes. And if they choose to remain at home, they may cease to take these odious papers. If slavery were abolished in the District, I know not what would restrain the press still from publishing advertisements. And if the papers here cease to publish for runaways and purchasers of slaves, still the gentleman would have to cease taking the papers of the South, or to silence them too. Sir, slavery is interwoven with our very political existence, is guaranteed by our Constitution, and its consequences must be borne with by our Northern brethren, as resulting from our system of Government; and they cannot attack the institutions of slavery without attacking the institutions of the country, our safety and welfare.

Mr. AROHER said he considered it almost as indiscreet in gentlemen from the South or slaveholding States to discuss this question, as it was for the Representatives from the North to introduce it. He would add nothing to this remark, but moved to lay the whole subject on the table.

The question was then taken on laying the motion on the table, by yeas and nays, and decided in the affirmative—yeas 189, noes 68.

Writings of Washington.

Mr. WISE, from the committee on the subject, reported the following joint resolution:

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of State be, and he is hereby, authorized to purchase of Russell, Odiorne & Co., one thousand copies of the writings of General George Washington, now being edited by Jared Sparks, provided that the said works shall not cost more than three dollars per volume. And the Secretary of State shall cause to be distributed a copy of the same to each member of the present Congress, to each Governor of the States, for the use of the State libraries, to each university and college of the United States, and to the public libraries in foreign countries, whose Governments have made presents of valuable books to the library of Congress, and that the purchase money of the same be, and is hereby, appropriated out of any money in the treasury not otherwise appropriated by law.

The resolution was read twice, and Mr. WISE moved to commit it to the Committee of the Whole.

Mr. SMITH, of Maine, said he hoped the House would dispose of the resolution now. Every gentleman must be aware of the difficulty of knowing when a resolution of this description will be taken up in the haste of proceedings at the close of a session. It is impossible for those opposed to keep watch of its progress, and it may pass from its not being observed, when it

would not under other circumstances. Sir, I am opposed to it. It must be known to the House that, under two resolutions of this House passed at the last session of the present Congress, more than \$41,000 have been expended for books for the members of this House. This appears from the published account rendered by the Clerk of the House. This, sir, ought to suffice for one Congress. I regret to say that I voted at the last session for one of the resolutions to which I now allude, while it was passing a preliminary stage. But, sir, if there is one vote of all the votes I have ever given, that I desire to blot out more than all the rest, it is that vote. That the books now offered are valuable, I do not doubt. That they are desirable, is also true. I would, sir, that every individual in the nation had a copy of them. But I do not think we are justified in voting these books for our private libraries, nor even to recompense those who have generously contributed to the public library of Congress. They do not relate to the legislation of the country. They appertain to the general history of the nation. Those who desire them should obtain them at their individual expense.

Mr. WISE, who further explained, adverted to the heavy expense of the publishers, and the patronage which had been extended to other works having weaker claims. The resolution went to limit the price. Three volumes had been already published, and it was expected the work would extend to twelve volumes. He hoped the House would not consent to the motion he was now pledged to make. He thereupon renewed the motion to lay the resolution on the table, and demanded the yeas and nays upon it. By permission, he replied, in answer to a query whether these writings were not those the MSS. of which had been already purchased by Congress, that they were, though the whole was not to be published. The yeas and nays were then taken, and stood—yeas 141, nays 48. So the resolution was laid upon the table.

THURSDAY, February 26.

French Relations.

The SPEAKER then laid before the House the following Message from the President of the United States:

To the House of Representatives of the United States:

I transmit to Congress a report of the Secretary of State, with copies of all the letters received from Mr. Livingston since the message to the House of Representatives of the 6th instant, of the instructions given to that minister; and of all the late correspondence with the French Government, in Paris or in Washington, except a note of M. Serurier, which, for reasons stated in the report, is not now communicated.

It will be seen that I have deemed it my duty to instruct Mr. Livingston to quit France, with his legation, and return to the United States, if an appropriation for the fulfilment of the convention shall be refused by the Chambers.

The subject being now, in all its present aspect, before Congress, whose right it is to decide what measures are to be pursued in that event, I deem it unnecessary to make further recommendation, being confident that, on their part, every thing will be done to maintain the rights and honor of the country, which the occasion requires.

ANDREW JACKSON.

WASHINGTON, Feb. 25, 1835.

The reading of the Message and documents having been begun and concluded, being heard with profound attention,

Mr. CAMBRELENG, chairman of the Committee on Foreign Affairs, presented the following resolutions, by the wish, as he stated, of a majority of the members of that committee, and moved that they be printed; without, however, any wish that they should be considered to-day.

Resolved, That it would be incompatible with the rights and honor of the United States further to negotiate in relation to the treaty entered into by France, on the 4th of July, 1841; and that this House will insist upon its execution, as ratified by both Governments.

Resolved, That the Committee on Foreign Affairs be discharged from the further consideration of so much of the President's Message as relates to commercial restrictions, or to reprisals, on the commerce of France.

Resolved, That preparations ought to be made to meet any emergency growing out of our relations with France.

Mr. EVERETT, of Massachusetts, rose to inquire in what form the Message of the President, with the accompanying documents, had been disposed of.

Being informed by the Chair that they had not yet been disposed of in any form,

He moved that they be referred to the Committee on Foreign Affairs. He said that, when the resolutions moved by the honorable gentleman from New York (Mr. CAMBRELENG) were read, he understood them as having been offered by that gentleman in his private capacity as a member of the House, and not as a resolution of the committee; for he believed the committee had not been called together.

Mr. CAMBRELENG expressed his hope that the gentleman from Massachusetts would withdraw his motion for reference of the Message and papers. The gentleman would observe, that one of the resolutions was for the discharge of the committee from the further consideration of the subject, that it might be in the hands of the House. He had moved the resolutions, as he had stated on presenting them, by the wish of a majority of the members composing the committee, and not as a measure of his own.

Mr. ADAMS, of Massachusetts, offered the following resolutions, by way of amendment to the resolutions moved by Mr. CAMBRELENG:

1. *Resolved*, That the rights of the citizens of the United States to indemnity from the Government of France, stipulated by the treaty concluded at Paris on the 4th of July, 1831, ought in no event to be

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Relations with France.

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sacrificed, abandoned, or impaired, by any consent or acquiescence of the Government of the United States.

2. *Resolved*, That if it be, in the opinion of the President of the United States, compatible with the honor and interest of the United States, during the interval until the next session of Congress, to resume the negotiations between the United States and France, he be requested so to do.

3. *Resolved*, That no legislative measure of a hostile character or tendency towards the French nation is necessary or expedient at this time.

Mr. CAMBRELENG moved to postpone the further consideration of the whole subject until to-morrow.

FRIDAY, February 27.

Relations with France.

Mr. CAMBRELENG, from the Committee on Foreign Relations, made the following report:

"The Committee on Foreign Affairs, to which was referred so much of the President's Message as concerns our political relations with France, and the correspondence between the ministers of the two Governments, submits the following report:

"At an early period of the session the committee took into consideration the question of authorizing reprisals, and continued from time to time to discuss various motions and resolutions, submitted by its different members. They could, however, concur in no proposition; and, in that condition, a majority deemed it expedient to postpone their decision till further intelligence should be received from France. The committee had, within the week past, twice instructed its chairman to report resolutions, but the arrival of additional intelligence caused a suspension of these reports until an official communication should be received from the Executive. That communication places the relations between the two countries in a novel and interesting position. While there is satisfactory evidence that the French Government earnestly desires that the appropriation for indemnity should be made in pursuance of the stipulations of the treaty, and while there is reason to hope that the Chamber of Deputies will adopt that measure, and faithfully discharge the obligations of France to the United States, it is, on the other hand, to be feared that the conduct of that Government has placed us in a position at least embarrassing, even should it not produce an entire suspension of diplomatic intercourse between the two nations. In this new position of our relations, it is deemed expedient to dispense with further discussion on the subject of non-intercourse with and reprisals on the commerce of France, to which the attention of the committee had been directed, and to leave the question of our political relations with that Government to the next Congress, whose action will, no doubt, be governed by the course which France may deem it expedient to pursue. We are not yet informed what may have been the decision of the King of the French as to the dismissal of our minister, nor can we conjecture what may be the state of the appropriation in the Chamber of Deputies.

"While the committee is unwilling to anticipate any but an amicable and favorable result in both cases, it must be recollected that the King and Chamber may decide adversely to the interests and

harmony of the two nations. Such a decision on the part of France, however it may be regretted by the people of both countries, who have great and growing interests, commercial and political, to cherish, may lead to a result upon which the committee-while in doubt, and while a hope remains, will not enlarge.

"The committee is therefore of the opinion that, at such a crisis, when events may occur which cannot be anticipated, and which may lead to important consequences in our external relations, it would not discharge its duty to the country if it did not express a firm resolution to insist on the full execution of the treaty of 1831, and if it did not recommend to the House a contingent preparation for any emergency which may grow out of our relations with France previous to the next meeting of Congress. It is a gratifying circumstance that our means are adequate to meet any exigency without recourse to loans or taxes. The bill now before the House authorizing the sale of our stock in the Bank of the United States would, if adopted, afford all the revenue necessary. The committee is of opinion that the whole, or a part, of the fund to be derived from that source should be appropriated for the purpose of arming our fortifications, and for making other military and naval preparations for the defence of the country, in case such expenditures should become necessary before the next meeting of Congress.

"The committee therefore submits the following resolutions for the consideration of the House:

"*Resolved*, That it would be incompatible with the rights and honor of the United States further to negotiate in relation to the treaty entered into by France on the 4th of July, 1831, and that this House will insist upon its execution, as ratified by both Governments.

"*Resolved*, That the Committee on Foreign Affairs be discharged from the further consideration of so much of the President's Message as relates to commercial restrictions, or reprisals, on the commerce of France.

"*Resolved*, That contingent preparations ought to be made to meet any emergency growing out of our relations with France."

Mr. EDWARD EVERETT asked permission of the House to submit the views of the minority of the committee in a report. As it was somewhat long, he would not call for its reading at this time. The minority did not, he said, essentially differ in their views of the subject from the majority; but on one or two points they did not fully concur with the majority, and they had thought it proper to take a more full and historical view of the subject than had been taken by the majority.

Mr. CAMBRELENG explained, that when he remarked yesterday that he had never heard of a report on the part of the minority of the committee, he had not the least idea that the paper now presented was the one referred to. Before the late intelligence was received it was proposed in the committee to move the printing of this document, but it was deferred at the time, and he thought the proposition had been dismissed. He added, that the report had not been read by one of the six members who formed a majority of the committee.

Mr. J. Q. ADAMS asked whether the report of the minority concluded with any resolutions.

Mr. E. EVERETT replied that it did not.

Mr. J. Q. ADAMS said he would now propose the resolutions which he sent to the Chair yesterday.

Mr. ARCHER moved that the report and resolutions be referred to the Committee of the Whole on the state of the Union, and be made the order of the day for this day.

The SPEAKER said it would make no difference which day was assigned, as the subject would take its regular station in the calendar, and could not be reached but by postponing all the orders preceding it.

SATURDAY, February 28.

Relations with France.

On motion of Mr. CAMBRELENG, the House went into Committee of the Whole on the state of the Union, (Mr. MASON, of Virginia, in the chair,) and the committee proceeded to consider the following resolutions, which were read:

"Resolved, That it would be incompatible with the rights and honor of the United States, further to negotiate in relation to the treaty entered into by France on the 4th of July, 1831, and that this House will insist upon its execution, as ratified by both Governments.

"Resolved, That the Committee on Foreign Affairs be discharged from the further consideration of so much of the President's Message as relates to commercial restrictions, or to reprisals, on the commerce of France.

"Resolved, That contingent preparation ought to be made to meet any emergency growing out of our relations with France."

The following resolutions, offered by Mr. ADAMS, of Massachusetts, as a substitute for the above resolutions, were also read:

"1. Resolved, That the rights of the citizens of the United States to indemnity from the Government of France, stipulated by the treaty concluded at Paris on the 4th of July, 1831, ought in no event to be sacrificed, abandoned, or impaired, by any consent or acquiescence of the Government of the United States.

"2. Resolved, That if it be, in the opinion of the President of the United States, compatible with the honor and interest of the United States, during the interval until the next session of Congress, to resume the negotiations between the United States and France, he be requested so to do.

"3. Resolved, That no legislative measure of a hostile character or tendency towards the French nation is necessary or expedient at this time."

MONDAY, March 2.

Relations with France.

An extensive debate on this subject occurred, in which Messrs. CAMBRELENG, J. Q. ADAMS, ARCHER, PICKENS, BOULDIN, BURGESS, COULTER,

E. EVERETT, ALLEN of Ohio, BIRNEY, and others took a part.

Mr. ROBERTSON, of Virginia, was not only in favor of a peaceful solution of our difficulties with France, but believed such a solution certain and inevitable, if not prevented by our own conduct, and he presented the three following resolutions as embodying his opinion of the proper course to be pursued:

Resolved, That this House regards the treaty of July, 1831, between the United States and France, as adjusting, in a spirit of mutual concession, the differences so long unhappily subsisting between the two countries.

Resolved, That there is satisfactory evidence that the French Government earnestly desires that the appropriation for indemnity should be made, in pursuance of the stipulations of the treaty, and reason to hope that the Chamber of Deputies will adopt that measure, and faithfully discharge the obligations of France to the United States.

Resolved, therefore, That the Committee on Foreign Affairs be discharged from the further consideration of so much of the President's Message as relates to commercial restrictions, or reprisals, upon the commerce of France.

Mr. GORHAM was in favor of the amendment offered by the gentleman from Virginia, (Mr. ARCHER.) He thought it a very proper resolution for the occasion; but he rose simply to enter his decided protest against the views contained in the speech which the gentleman had delivered in favor of his amendment. He was utterly opposed to the speech; but would vote for the resolution.

The question was taken on Mr. WATMOUGH's motion to lay the whole subject on the table—yeas 48, nays 168.

So the motion was negatived.

The question then recurring on the substitute adopted by Mr. J. Q. ADAMS, the yeas and nays were then ordered and taken, when the resolution was adopted unanimously.

The following resolutions were then also unanimously adopted:

Resolved, That the Committee on Foreign Affairs be discharged from the further consideration of so much of the President's Message as relates to commercial restrictions, or to reprisals, on the commerce of France.

Resolved, That preparation ought to be made to meet any emergency growing out of our relations with France.

TUESDAY, March 8.

By unanimous consent of the House, Messrs. CLAY, MOSES MASON, and WILDE, were permitted to record their votes in favor of Mr. ADAMS's resolution, as modified at the suggestion of Mr. CAMBRELENG, on the subject of the French treaty.

Fortification Bill.

The House took up the fortification bill, and the question being on concurring with an amendment made in committee, proposing the

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Thanks to the Speaker.

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appropriation of three millions of dollars, to be expended, in whole or in part, under the direction of the President of the United States, in increasing the military and naval service, including ordnance, fortifications, and increase of the navy, if, in his opinion, the state of the country shall require it.

Mr. HEISTER demanded the yeas and nays; which were ordered, and being taken, resulted as follows—yeas 107, nays 75.

General Appropriation Bill—Minister to England.

The general appropriation bill was then taken up.

Mr. POLK moved to concur with the Committee of the Whole in the amendments.

The amendment of the Senate, in relation to the appropriation for the salary of a minister to Great Britain, was read.

Mr. J. Q. ADAMS said this amendment proposed to introduce a new principle. The President had heretofore uniformly appointed foreign ministers of all grades, when he deemed such appointment necessary. This was a most important and necessary power reserved to him under the constitution. The amendment was an assumption, on the part of the Senate, that a minister should not be appointed without the consent of that body. This, if adopted, would be one of the most pernicious alterations which the constitution could endure. It was one among other instances of an attempt to alter the constitution in an appropriation bill. If this principle should be adopted, we should have other amendments of the constitution introduced in a similar way, and the President might be compelled, in consequence, to veto the general appropriation bill. It was incumbent upon the House to prevent any encroachments of the Executive upon the prerogatives of the Senate. In like manner, the House was bound to resist the encroachments of the Senate upon the constitutional powers of the Executive. It was also the province of the Senate to check and control the action of this House, which was quite as likely as the other branch, he would not say now, but in other times, to infringe upon the just rights of the Executive. The constitution provided three powers, who were to co-operate together in the management of the public affairs. They formed checks upon each other, and were so constituted that when one of the three attempted to transcend its constitutional sphere, the other two would interfere to prevent it.

In conclusion, Mr. A. said that the amendment of the Senate proposed to introduce a principle which was contrary to the practice of the Government from its commencement. Every President, from Washington down, had pursued a different practice from that proposed in the amendment. It was true, the Senate did not assume directly to declare that a minister should not be appointed by the President, unless previously confirmed by that body; but the means of such appointment were withheld, and

the Senate had determined not to pay a minister unless appointed according to the terms of their proviso. He hoped the House would disagree to the amendment of the Senate.

Mr. BARRINGER said he was opposed to the amendment of the Senate, and should vote against it. He believed the President had the power of appointment during a recess, where a vacancy occurred in that recess, and he held that it made little difference whether he were a chargé or a minister. The President might equally take upon himself to increase the pay, or to appoint a minister plenipotentiary instead of a chargé, or *vice versa*, during the recess. Mr. B. did not concur with the gentleman from Massachusetts (Mr. ADAMS) in his reasoning, although he said he should concur with him in the vote he intended to give. He (Mr. B.) denied the right of the President of the United States, upon former practice or precedent, to appoint a minister during the recess when the vacancy originated, or existed during the session of the Senate, and the President might have nominated. He was aware that it was a contested question, as long ago as under the first administration of this Government. But one practice had been generally recognized, that of consulting with the Senate whether they would agree to institute diplomatic relations with any country. It was so during the administrations of Washington and the elder Adams, even down to the time of Mr. Jefferson. The President never presumed, until after the administration of the last, to open diplomatic relations with a country without first advising with the Senate. Mr. B. said he should vote for the appropriation. The question was taken by yeas and nays, and resulted as follows—yeas 114, nays 48.

So the House concurred with the amendment of the Committee of the Whole, and disagreed to the Senate's amendment.

Fortification Bill.

The bill making appropriations for certain fortifications already commenced, was taken up.

The amendment of the Senate appropriating \$75,000 for the repair of the fortifications in Boston harbor was read.

The question being on the amendment to this item, adopted in committee, appropriating \$3,000,000, to be expended by the President, in the recess of Congress, if he should deem it expedient, for the military and naval service, including fortifications, ordnance, &c.

Mr. HEISTER demanded the yeas and nays; which were ordered, and were—yeas 109, nays 77.

So the amendment to the amendment was agreed to.

The amendment of the Senate, as amended, was then concurred in.

Thanks to the Speaker.

Mr. E. WHITGLASSY submitted the following resolution, which was unanimously agreed to:

Resolved, That the thanks of this House be presented to the honorable JOHN BELL, for the able, impartial, and dignified manner in which he has presided over its deliberations, and performed the arduous and important duties of the Chair.

Fortification Bill.

A message was here received from the Senate, and the Speaker having resumed the chair, the House took up the amendment to the fortification bill, appropriating \$3,000,000, and the resolution of the Senate that it would insist on its disagreement.

Mr. GHOLSON expressed a fervent hope that the House would recede from its amendment. He was conscious that no man, woman, or child, in the United States, who had any intelligence of the matter, seriously believed that France would declare war against this country. The appropriation was, therefore, unnecessary, and the House might with propriety abandon the amendment. He moved that the House do recede.

Mr. McKENNAN moved the previous question; which was seconded.

The main question was then put on the motion of Mr. GHOLSON to recede from the amendment of the House appropriating \$3,000,000 for the support of fortification—yeas 87, nays 110.

So the House refused to recede from its amendment.

Branches of the Mint.

The bill from the Senate to establish branches of the mint of the United States, was read a third time and passed,—yeas 115, nays 60.

Fortification Bill.

A message to the following effect was received from the Senate.

The Senate adhere to their disagreement to the amendment of the House to the bill making appropriations for certain fortifications, appropriating three millions of dollars, &c.

Mr. CAMBRELENG moved that the House adhere to the amendment.

Mr. MERCKER moved that the House recede from the amendment; which motion, he said, was first in order.

Mr. POLK said the motion to adhere had priority to the other.

The CHAIR decided that the question must be first taken on the motion to recede.

Mr. A. H. SHEPHERD said, if the House adhered, there could be no further intercourse with the Senate on the subject. If it was in order, he would move that the House insist, and ask a conference with the Senate.

Mr. LITTLE objected entirely, he said, to any conciliatory proposition. The House had gone as far as prudence and patriotism would justify them in going to conciliate the Senate. The only question was, where the responsibility of the loss of the bill should lodge. Let it be with that body which is determined to act, not only against the spirit of the executive recommendation, but against this House as the Rep-

resentatives of the people. This body, which was intimately connected with the people, and might be supposed to represent their sentiments, had unanimously agreed to a declaration which would honor and distinguish this House in all time. We have (said Mr. L.) gone further, and put the seal on our professions by making an appropriation of three millions. Let the other body now take the responsibility of defeating it; that body which was already groaning under the weight of a responsibility which it cannot much longer sustain.

[Order! order! was vociferated from every part of the House.]

Mr. LITTLE. What are the exceptionable words?

Mr. MERCKER. I will repeat them. The gentleman says, the Senate of the United States is groaning under the weight, &c.

Mr. LITTLE. I said no such thing. I said the other body.

Mr. MERCKER appealed to the Chair to decide whether the words were in order.

The CHAIR decided that the gentleman was not in order in alluding to the proceedings of the "other body."

Mr. LITTLE. I have heard the allusion made here a thousand times, without interruption from the Chair or the House.

The CHAIR. The gentleman can make use of no language which is likely to lead to an interruption of harmony between the two Houses.

Mr. LITTLE proceeded. He had not, he said, departed from the courtesy due to the other body. All he had to say was, that he wished the responsibility to abide in the proper place. The House had sustained the sense and spirit of the Message of the President, the wisdom and policy of which had been verified by events. But, sir, another body has placed itself in opposition to the views of the Executive, and is now heaping upon itself a responsibility which I unequivocally declare it cannot sustain.

[Cries of order! order!]

This House will have its full share of the glory attending the successful termination of the controversy with France, and the gentleman from Massachusetts will have a full share in it. The people of the country will sanction the action of this House, and award to it the glory of the action. I say, then, said Mr. LITTLE, I will not depart, as a member of this body, from the elevated stand we have taken. I hold the appropriation to be the consummation of the proceedings of the last three days. It will send out to the world irresistible evidence of a national feeling on the subject, on the part of this House. It will leave no room for cavil or doubt; and, sir, the country will sustain us, while it puts the seal of its condemnation on those who resist us. If, then, the House retreats now, it will deserve to be considered as the most pusillanimous body in the world.

Mr. HUBBARD said, if the House adhered, the bill would be lost. He moved that the House appoint a committee of conference.

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Adjournment.

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Mr. LEWIS said it was not the amount of the appropriation, but the principle, which was objected to by the Senate. A committee of conference might, therefore, adjust the disagreement.

The previous question was taken on the motion of Mr. MERRICK to recede, and decided in the negative—yeas 88, nays 107.

Mr. HUBBARD moved that the House insist upon their amendment, and ask a joint committee of conference.

The motion was agreed to, and Messrs. CAMERLUNG, LEWIS, and HUBBARD, appointed on the part of the House.

Cumberland Road Bill.

The Cumberland road bill was taken up and read a third time.

Mr. MCKAY moved that a message be sent to the other House, informing them that this House, having completed its business, is ready to adjourn.

The CHAIR said the motion was not in order, the question being on the passage of the bill.

The Clerk proceeded to take the yeas and nays on the passage of the bill to continue and repair the Cumberland road, and

Mr. GILMER, when his name was called, rose and said he considered that he had no right to vote, the term for which he was elected having expired at 12 o'clock this night; and he therefore declined voting.

The question was decided in the affirmative—yeas 94, nays 80.

Mr. J. Y. MASON informed the House that the Senate had adjourned. The fact announced was questioned; but it being confirmed, the House agreed, on the motion of Mr. BARRINGER, to adjourn.

The SPEAKER (Mr. BELT) then rose, and addressed the House as follows:

Gentlemen of the House of Representatives: It is a late hour, but I hope I may be allowed one word, in acknowledgment of the many obligations I am under to this House.

Duly sensible, as I am, of the value of that testimony of respect for your presiding officer which you have this night ordered to be placed upon the journals of the House, and as much bound as I am by that compliment to express my sensibility to your kindness, I am still more solicitous, upon this occasion, the last that may offer to me, to express a yet deeper and more abiding sense of gratitude, for that continued indulgence to my faults, that marked forbearance and tenderness to my many deficiencies, which have been manifest, on your part, from the first moment I took this chair, and which have continued to be manifested up to this, the last allotted hour of the present Congress. The feelings inspired by a recollection of so much generosity I am unable adequately to express, but they shall have a place in this bosom so long as there is a pulsation there.

But this is not the extent of the obligations I am under to you, gentlemen. If the public service had suffered essentially from any defect in me, the memory of your generous indulgence would afford me but a qualified pleasure; but you have, upon every occasion, given to me, your presiding officer,

liable to err, and actually erring, as he often did, your firm support in his efforts to prevent the effect of what seemed to him to be error in others; and thus you reconciled your continued forbearance towards him with your duty to the public, in supporting the regularity and dignity of the proceedings of the House.

It is needless to declare to you how feeble, how utterly incompetent, the efforts of any one must be to discharge the duties of this station, without the cordial support of the members of this House. The satisfaction I derive from the reflection that I have had your cordial and necessary support, is greatly heightened by two considerations—the one personal to myself, the other of a public nature. Inexperienced as I was, when the duties of the Chair were suddenly devolved upon me, I could deserve your support, in attempting to maintain the just authority and respect of the Chair, only by bringing to the discharge of its various duties a resolute determination to perform them with impartiality, and a suitable firmness and decision. However I may have failed in these purposes in particular instances, unconsciously and through the weakness of our common nature, I feel a proud satisfaction in believing that you have always duly appreciated my intentions and my desires.

But I have a yet higher gratification, founded upon the experience I have had in the chair; whatever may be the occasional disorders and intemperance incident to times highly excited by party conflicts, we have just reason to hope that there will always remain a collective, an aggregate feeling and determination in this House to forbear those extremes, those excesses, which, if indulged, would justly forfeit the respect and confidence of the country.

None will question, that whatever concerns the character and respectability of this House, as a co-ordinate branch of the legislative department of the Government, concerns likewise the interests, the very being, of free institutions, and the rights and happiness of the human family. Whether this House shall continue to hold and actually exercise its due proportion of the powers of this Government; whether it shall continue to contribute its due weight and authority in shaping the policy of this great country, and in elevating it to that high destiny which the friends of political and civil liberty in every part of the world, so devoutly desire; whether, indeed, such a destiny shall ever be ours, depends greatly upon the rank which this House shall continue to hold in the affections, the respect, and confidence, of the great body of the people.

The recollection that, while I have had the honor to fill this station, I have had your co-operation and confidence in my feeble efforts to sustain the due importance and respectability of this House, will be a source of high gratification to me in the future vicissitudes of my life, whatever they may be. And now, at the moment of a separation, which, with many of us, may be permanent, I may be permitted to say, that if, upon any occasion, I have seemed to fall in respect which is always due from the Chair to the House, and to all its members, I can, with the utmost sincerity, affirm that it was never intentional; and I beg to express my ardent wishes for the continued and uninterrupted health and happiness of every individual of which this House is composed.

The SPEAKER then adjourned the House, at half-past three o'clock, without day.

TWENTY-FOURTH CONGRESS.—FIRST SESSION.

BEGUN AT THE CITY OF WASHINGTON, DECEMBER 7, 1835.

PROCEEDINGS IN THE SENATE.*

MONDAY, December 7, 1835.

The first session of the 24th Congress commenced this day at the Capitol. At twelve o'clock the Senate was called to order by the Vice President, Mr. VAN BUREN, when it appeared that a quorum of the Senators were in attendance.

The CHAIR communicated the credentials of the Hon. JOHN C. CALHOUN, elected by the Legislature of the State of South Carolina a Senator from that State, to serve for six years from the 4th of March last;

Also the credentials of the Hon. NEHEMIAH R. KNIGHT, elected by the Legislature of the State of Rhode Island a Senator from that State, to serve for six years from the 4th of March last;

Mr. SOUTHARD presented the credentials of the Hon. GARRET D. WALL, elected by the Legislature of New Jersey a Senator from that State, to serve for six years from the 4th of March last; and

Mr. EWING presented the credentials of the Hon. JOHN DAVIS, elected by the Legislature of Massachusetts a Senator from that State, to serve for six years from the 4th of March last; all of which were read.

Mr. WHITE said that at the last session of the Legislature of the State of Tennessee he had been re-elected to the Senate of the United States for six years from the 4th of March last,

but that the official information of his election was not in his possession. It had heretofore been the practice in the State of Tennessee to transmit to the presiding officer of the Senate the credentials of its Senators. But as this had not yet been done, he submitted to the Chair whether he should take his seat.

The CHAIR said that, if no objection was made, the gentleman could take his oath with the other Senators to be qualified.

The usual oath was then administered by the VICE PRESIDENT to Messrs. WHITE, HIBBARD, KING, CLAYTON, ROBINSON, and RUGGLES, whose credentials were presented at the last session, and to Messrs. WALL, KNIGHT, and DAVIS, whose credentials were just read.

Mr. WHITE offered the following resolutions: which were considered and agreed to.

Ordered, That the Secretary acquaint the House of Representatives that a quorum of the Senate is assembled, and ready to proceed to business.

Resolved, That a committee be appointed on the part of the Senate, to join such committee as may be appointed by the House of Representatives, to wait on the President of the United States, and inform him that Congress is assembled, and ready to receive any communications he may be pleased to make.

On motion of Mr. GRUNDY, the Senate ordered that the Chair appoint the committee;

And Mr. WHITE and Mr. KNIGHT were appointed a committee to wait on the President.

A message was received from the House

* LIST OF MEMBERS OF THE SENATE.

Maine.—Ether Shepley, John Ruggles.
New Hampshire.—Isaac Hill, Henry Hubbard.
Massachusetts.—Daniel Webster, John Davis.
Rhode Island.—Nehemiah R. Knight, Asahel Robbina.
Connecticut.—Nathan Smith, Gideon Tomlinson.
Vermont.—Samuel Prentiss, Benjamin Swift.
New York.—Nathaniel P. Tallmadge, Silas Wright, jun.
New Jersey.—Samuel L. Southard, Garret D. Wall.
Pennsylvania.—James Buchanan, Samuel McKean.
Delaware.—John M. Clayton, Arnold Naudain.
Maryland.—Robert H. Goldsborough, Joseph Kent.

Virginia.—Benjamin Watkins Leigh, John Tyler.
North Carolina.—Bedford Brown, Willie P. Mangum.
South Carolina.—John C. Calhoun, William C. Preston.
Georgia.—Alfred Cuthbert, John P. King.
Kentucky.—Henry Clay, John J. Crittenden.
Tennessee.—Felix Grundy, Hugh Lawson White.
Ohio.—Thomas Ewing, Thomas Morris.
Louisiana.—Alexander Porter, Robert C. Nicholas.
Indiana.—William Hendricks, John Tipton.
Mississippi.—John Black, Robert J. Walker.
Illinois.—Elias K. Kane, John M. Roblason.
Alabama.—William R. King, Gabriel P. Moore.
Missouri.—Lewis F. Linn, Thomas H. Benton.

DECEMBER, 1835.]

The President's Message.

[SENATE.]

of Representatives, by Mr. FRANKLIN, their Clerk.

Mr. President: I am directed to inform the Senate that a quorum of the House of Representatives has assembled; that JAMES K. POLK, of Tennessee, has been elected Speaker thereof; and that it is now ready to proceed to business.

TUESDAY, December 8.

BENJAMIN WATKINS LEIGH, a Senator from Virginia; BEDFORD BROWN, a Senator from North Carolina; WILLIAM R. KING, a Senator from Alabama; HENRY CLAY and JOHN J. CRITTENDEN, Senators from Kentucky, appeared.

Mr. MANGUM presented the credentials of BEDFORD BROWN, of North Carolina, elected a Senator from that State for six years from the 4th of March last.

Mr. SOUTHWARD presented the credentials of BENJAMIN WATKINS LEIGH, of Virginia, elected a Senator from that State for six years from the 4th of March last.

WILLIAM R. KING suggested that his credentials also had been issued.

These three Senators were then qualified.

Mr. WHITE, from the joint committee appointed to wait on the President of the United States, and to inform him that a quorum had assembled, and was ready to receive any communication he may be pleased to make, reported that the joint committee had performed that duty.

A Message was then received from the President of the United States, by Mr. Donelson, his secretary, which was read, as follows:

*Fellow-citizens of the Senate
and House of Representatives:*

In the discharge of my official duty, the task again devolves upon me of communicating with a new Congress. The reflection that the representation of the Union has been recently renewed, and that the constitutional term of its service will expire with my own, heightens the solicitude with which I shall attempt to lay before it the state of our national concerns, and the devout hope which I cherish, that its labors to improve them may be crowned with success.

You are assembled at a period of profound interest to the American patriot. The unexampled growth and prosperity of our country, having given us a rank in the scale of nations which removes all apprehension of danger to our integrity and independence from external foes, the career of freedom is before us, with an earnest from the past, that, if true to ourselves, there can be no formidable obstacle in the future, to its peaceful and uninterrupted pursuit. Yet, in proportion to the disappearance of those apprehensions which attended our weakness, at once contrasted with the power of some of the states of the old world, should we now be solicitous as to those which belong to the conviction, that it is to our own conduct we must look for the preservation of those causes, on which depend the excellence and the duration of our happy system of Government.

In the example of other systems, founded on the will of the people, we trace to internal dissension the influences which have so often blasted the hopes of the friends of freedom. The social elements, which were strong and successful when united against external danger, failed in the more difficult task of properly adjusting their own internal organization, and thus gave way the great principle of self-government. Let us trust that this admonition will never be forgotten by the Government or the People of the United States; and that the testimony which our experience thus far holds out to the great human family, of the practicability and the blessings of free government, will be confirmed in all time to come.

We have but to look at the state of our agriculture, manufactures, and commerce, and the unexampled increase of our population, to feel the magnitude of the trust committed to us. Never, in any former period of our history, have we had greater reason than we now have, to be thankful to Divine Providence for the blessings of health and general prosperity. Every branch of labor we see crowned with the most abundant rewards: in every element of national resources and wealth, and of individual comfort, we witness the most rapid and solid improvements. With no interruptions to this pleasing prospect at home, which will not yield to the spirit of harmony and good will that so strikingly pervades the mass of the people in every quarter, amidst all the diversity of interest and pursuits to which they are attached: and with no cause of solicitude in regard to our external affairs, which will not, it is hoped, disappear before the principles of simple justice and the forbearance that mark our intercourse with foreign powers—we have every reason to feel proud of our beloved country.

The general state of our Foreign Relations has not materially changed since my last annual Message.

In the settlement of the question of the North-eastern boundary, little progress has been made. Great Britain has declined acceding to the proposition of the United States, presented in accordance with the resolution of the Senate, unless certain preliminary conditions were admitted, which I deemed incompatible with a satisfactory and right adjustment of the controversy. Waiting for some distinct proposal from the Government of Great Britain, which has been invited, I can only repeat the expression of my confidence, that with the strong mutual disposition which I believe exists, to make a just arrangement, this perplexing question can be settled with a due regard to the well-founded pretensions and pacific policy of all the parties to it. Events are frequently occurring on the North-eastern frontier, of a character to impress upon all the necessity of a speedy and definitive termination of the dispute. This consideration, added to the desire common to both, to relieve the liberal and friendly relations so happily existing between the two countries from all embarrassment, will, no doubt, have its just influence upon both.

Our diplomatic intercourse with Portugal has been renewed, and it is expected that the claims of our citizens, partially paid, will be fully satisfied as soon as the condition of the Queen's Government will permit the proper attention to the subject of them. That Government has, I am happy to inform you, manifested a determination to act upon the liberal principles which have marked our commer-

cial policy; the happiest effects upon the future trade between the United States and Portugal, are anticipated from it, and the time is not thought to be remote when a system of perfect reciprocity will be established.

The instalments due under the convention with the king of the Two Sicilies, have been paid with that scrupulous fidelity by which his whole conduct has been characterized, and the hope is indulged, that the adjustment of the vexed question of our claims will be followed by a more extended and mutually beneficial intercourse between the two countries.

The internal contest still continues in Spain. Distinguished as this struggle has unhappily been, by incidents of the most sanguinary character, the obligations of the late treaty of indemnification with us, have been, nevertheless, faithfully executed by the Spanish Government.

No provision having been made at the last session of Congress for the ascertainment of the claims to be paid, and the apportionment of the funds, under the convention made with Spain, I invite your early attention to the subject. The public evidences of the debt have, according to the terms of the convention, and in the forms prescribed by it, been placed in the possession of the United States, and the interest, as it fell due, has been regularly paid upon them. Our commercial intercourse with Cuba stands as regulated by the act of Congress. No recent information has been received as to the disposition of the Government of Madrid, on this subject, and the lamented death of our recently appointed minister, on his way to Spain, with the pressure of their affairs at home, render it scarcely probable that any change is to be looked for during the coming year. Further portions of the Florida archives have been sent to the United States, although the death of one of the Commissioners, at a critical moment, embarrassed the progress of the delivery of them. The higher officers of the local Government have recently shown an anxious desire, in compliance with the orders from the parent Government, to facilitate the selection and delivery of all we have a right to claim.

Negotiations have been opened at Madrid, for the establishment of a lasting peace between Spain and such of the Spanish American Governments of this hemisphere, as have availed themselves of the intimation given to all of them, of the disposition of Spain to treat upon the basis of their entire independence. It is to be regretted, that simultaneous appointments, by all, of ministers to negotiate with Spain, had not been made, the negotiation itself would have been simplified, and this long-standing dispute, spreading over a large portion of the world, would have been brought to a more speedy conclusion.

Our political and commercial relations with Austria, Prussia, Sweden, and Denmark, stand on the usual favorable bases. One of the articles of our treaty with Russia, in relation to the trade on the North-west coast of America, having expired, instructions have been given to our Minister at St. Petersburg to negotiate a renewal of it. The long and unbroken amity between the two Governments gives every reason for supposing the article will be renewed, if stronger motives do not exist to prevent it than, with our view of the subject, can be anticipated here.

I ask your attention to the Message of my prede-

cessor at the opening of the second session of the nineteenth Congress, relative to our commercial intercourse with Holland, and to the documents connected with that subject, communicated to the House of Representatives on the 10th of January, 1825, and 18th January, 1827. Coinciding in the opinion of my predecessor, that Holland is not, under the regulations of her present system, entitled to have her vessels and their cargoes received into the United States on the footing of American vessels and cargoes, as regards duties of tonnage and impost, a respect for his reference of it to the Legislature, has alone prevented me from acting on the subject. I should still have waited, without comment, for the action of Congress, but recently a claim has been made by Belgian subjects to admission into our ports for their ships and cargoes, on the same footing as American, with the allegation we could not dispute, that our vessels received in their ports the identical treatment shown to them in the ports of Holland, upon whose vessels no discrimination is made in the ports of the United States. Giving the same privileges, the Belgians expected the same benefits—benefits that were in fact enjoyed when Belgium and Holland were united under one government. Satisfied with the justice of their pretension to be placed on the same footing with Holland, I could not, nevertheless, without disregard to the principle of our laws, admit their claim to be treated as Americans; and at the same time a respect for Congress, to whom the subject had long since been referred, has prevented me from producing a just equality, by taking from the vessels of Holland privileges conditionally granted by acts of Congress, although the condition upon which the grant was made, has, in my judgment, failed since 1822. I recommend, therefore, a review of the act of 1824, and such a modification of it as will produce an equality, on such terms as Congress shall think best comports with our settled policy, and the obligations of justice to two friendly powers.

With the Sublime Porte, and all the Governments on the coast of Barbary, our relations continue to be friendly. The proper steps have been taken to renew our treaty with Morocco.

The Argentine Republic has again promised to send, within the current year, a Minister to the United States.

A Convention with Mexico for extending the time for the appointment of commissioners to run the boundary line has been concluded, and will be submitted to the Senate. Recent events in that country have awakened the liveliest solicitude in the United States. Aware of the strong temptations existing, and powerful inducements held out to the citizens of the United States to mingle in the dissensions of our immediate neighbors, instructions have been given to the District Attorneys of the United States, where indications warranted it, to prosecute, without respect to persons, all who might attempt to violate the obligations of our neutrality: while at the same time it has been thought necessary to apprise the Government of Mexico that we should require the integrity of our country to be scrupulously respected by both parties.

From our diplomatic agents in Brazil, Chili, Peru, Central America, Venezuela, and New Granada, constant assurances are received of the continued good understanding with the Governments to which they are severally accredited. With those Govern-

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ments upon which our citizens have valid and accumulating claims, scarcely an advance towards a settlement of them is made, owing mainly to their distracted state, or to the pressure of imperative domestic questions. Our patience has been, and will probably be, still further severely tried; but our fellow-citizens whose interests are involved, may confide in the determination of the Government to obtain for them, eventually, ample retribution.

Unfortunately, many of the nations of this hemisphere are still self-tormented by domestic dissensions. Revolution succeeds revolution, injuries are committed upon foreigners engaged in lawful pursuits, much time elapses before a Government sufficiently stable is erected to justify expectation of redress—Ministers are sent and received, and before the discussions of past injuries are fairly begun, fresh troubles arise; but too frequently new injuries are added to the old, to be discussed together, with the existing Government, after it has proved its ability to sustain the assaults made upon it, or with its successor, if overthrown. If this unhappy condition of things continues much longer, other nations will be under the painful necessity of deciding whether justice to their suffering citizens does not require a prompt redress of injuries by their own power, without waiting for the establishment of a government competent and enduring enough to discuss and to make satisfaction for them.

Since the last session of Congress, the validity of our claims upon France, as liquidated by the treaty of 1831, has been acknowledged by both branches of her Legislature, and the money has been appropriated for their discharge; but the payment is, I regret to inform you, still withheld.

A brief recapitulation of the most important incidents in this protracted controversy, will show how utterly untenable are the grounds upon which this course is attempted to be justified.

On entering upon the duties of my station, I found the United States an unsuccessful applicant to the justice of France, for the satisfaction of claims, the validity of which was never questionable, and has now been most solemnly admitted by France herself. The antiquity of these claims, their high justice, and the aggravating circumstances out of which they arose, are too familiar to the American people to require description. It is sufficient to say, that, for a period of ten years and upwards, our commerce was, with but little interruption, the subject of constant aggressions on the part of France—aggressions, the ordinary features of which were condemnations of vessels and cargoes under arbitrary decrees, adopted in contravention, as well of the laws of nations, as of treaty stipulations: burnings on the high seas, and seizures and confiscations, under special imperial rescripts, in the ports of other nations occupied by the armies, or under the control of France. Such, it is now conceded, is the character of the wrongs we suffered—wrong, in many cases, so flagrant, that even their authors never denied our right to reparation. Of the extent of these injuries, some conception may be formed from the fact, that after the burning of a large amount at sea, and the necessary deterioration, in other cases, by long detention, the American property so seized and sacrificed at forced sales, excluding what was adjudged to privateers, before or without condemnation, brought into the

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French Treasury upwards of twenty-four millions of francs, besides large custom-house duties.

The subject had already been an affair of twenty years' uninterrupted negotiation, except for a short time, when France was overwhelmed by the military power of united Europe. During this period, whilst other nations were extorting from her payment of their claims at the point of the bayonet, the United States intermitted their demand for justice, out of respect to the oppressed condition of a gallant people, to whom they felt under obligations for fraternal assistance in their own days of suffering and of peril. The bad effects of these protracted and unavailing discussions, as well upon our relations with France as upon our national character, were obvious; and the line of duty was to my mind equally so. This was, either to insist upon the adjustment of our claims within a reasonable period, or to abandon them altogether. I could not doubt that, by this course, the interests and honor of both countries would be best consulted. Instructions were therefore given in this spirit, to the Minister who was sent out, once more to demand reparation. Upon the meeting of Congress, in December, 1829, I felt it my duty to speak of these claims, and the delays of France, in terms calculated to call the serious attention of both countries to the subject. The then French Ministry took exception to the message on the ground of its containing a menace, under which it was not agreeable to the French Government to negotiate. The American Minister, of his own accord, refuted the construction which was attempted to be put upon the message, and, at the same time, called to the recollection of the French Ministry, that the President's message was a communication addressed, not to Foreign Governments, but to the Congress of the United States, in which it was enjoined upon him, by the constitution, to lay before that body information of the state of the Union, comprehending its foreign as well as its domestic relations; and that if, in the discharge of this duty, he felt it incumbent upon him to summon the attention of Congress, in due time, to what might be the possible consequences of existing difficulties with any foreign Government, he might fairly be supposed to do so under a sense of what was due from him in a frank communication with another branch of his own Government, and not from any intention of holding a menace over a foreign power. The views taken by him received my approbation; the French Government was satisfied, and the negotiation was continued. It terminated in the treaty of July 4, 1831, recognizing the justice of our claims, in part, and promising payment to the amount of twenty-five millions of francs, in six annual instalments.

The ratifications of this treaty were exchanged at Washington, on the 2d of February, 1832, and in five days thereafter it was laid before Congress, who immediately passed the acts necessary, on our part, to secure to France the commercial advantages conceded to her in the compact. The treaty had previously been solemnly ratified by the King of the French, in terms which are certainly not mere matters of form, and of which the translation is as follows: "We, approving the above convention, in all and each of the dispositions which are contained in it, do declare, by ourselves, as well as by our heirs and successors, that it is accepted, approved,

ratified, and confirmed; and by these presents, signed by our hand, we do accept, approve, ratify, and confirm it; promising, on the faith and word of a King, to observe it, and to cause it to be observed inviolably, without ever contravening it, or suffering it to be contravened, directly or indirectly, for any cause, or under any pretence whatsoever."

Official information of the exchange of ratifications in the United States reached Paris whilst the Chambers were in session. The extraordinary, and to us injurious, delays of the French Government, in their action upon the subject of its fulfilment, have been heretofore stated to Congress, and I have no disposition to enlarge upon them here. It is sufficient to observe that the then pending session was allowed to expire without even an effort to obtain the necessary appropriations; that the two succeeding ones were also suffered to pass away without any thing like a serious attempt to obtain a decision upon the subject; and that it was not until the fourth session, almost three years after the conclusion of the treaty, and more than two years after the exchange of ratifications, that the bill for the execution of the treaty was pressed to a vote and rejected.

In the mean time, the Government of the United States, having full confidence that a treaty entered into and so solemnly ratified by the French King, would be executed in good faith, and not doubting that provision would be made for the payment of the first instalment, which was to become due on the second day of February, 1833, negotiated a draft for the amount through the Bank of the United States. When this draft was presented by the holder, with the credentials required by the treaty to authorize him to receive the money, the Government of France allowed it to be protested. In addition to the injury in the non-payment of the money by France, conformably to her engagement, the United States were exposed to a heavy claim on the part of the bank, under pretence of damages, in satisfaction of which that institution seized upon, and still retains, an equal amount of the public moneys. Congress was in session when the decision of the Chambers reached Washington, and an immediate communication of this apparently final decision of France not to fulfil the stipulations of the treaty, was the course naturally to be expected from the President. The deep tone of dissatisfaction which pervaded the public mind, and the corresponding excitement produced in Congress by only a general knowledge of the result, rendered it more than probable that a resort to immediate measures of redress would be the consequence of calling the attention of that body to the subject. Sincerely desirous of preserving the pacific relations which had so long existed between the two countries, I was anxious to avoid this course if I could be satisfied that by doing so neither the interest nor the honor of my country would be compromised. Without the fullest assurances upon that point, I could not hope to acquit myself of the responsibility to be incurred, in suffering Congress to adjourn without laying the subject before them. Those received by me were believed to be of that character.

That the feelings produced in the United States by the news of the rejection of the appropriation would be such as I have described them to have been, was foreseen by the French Government, and

prompt measures were taken by it to prevent the consequences. The King, in person, expressed through our Minister at Paris his profound regret at the decision of the Chambers, and promised to send, forthwith, a national ship with despatches to his Minister here, authorizing him to give such assurances as would satisfy the Government and people of the United States that the treaty would yet be faithfully executed by France. The national ship arrived, and the Minister received his instructions. Claiming to act under the authority derived from them, he gave to this Government in the name of his, the most solemn assurances, that, as soon after the new elections as the charter would permit, the French Chambers would be convened, and the attempt to procure the necessary appropriations renewed; that all the constitutional powers of the King and his Ministers should be put in requisition to accomplish the object; and he was understood and so expressly informed by this Government at the time, to engage that the question should be pressed to a decision at a period sufficiently early to permit information of the result to be communicated to Congress at the commencement of their next session. Relying upon these assurances, I incurred the responsibility, great as I regarded it to be, of suffering Congress to separate without communicating with them upon the subject.

The expectations justly founded upon the promises thus solemnly made to this Government by that of France, were not realized. The French Chambers met on the 31st of July, 1834, soon after the election; and although our Minister in Paris urged the French Ministry to bring the subject before them, they declined doing so. He next insisted that the Chambers, if prorogued without acting on the subject, should be re-assembled at a period so early that their action on the treaty might be known in Washington prior to the meeting of Congress. This reasonable request was not only declined, but the Chambers were prorogued to the 29th of December, a day so late, that their decision, however urgently pressed, could not, in all probability, be obtained in time to reach Washington before the necessary adjournment of Congress by the constitution. The reasons given by the Ministry for refusing to convoke the Chambers at an early period, were afterwards shown not to be insuperable, by their actual convocation on the 1st of December, under a special call, for domestic purposes—which fact, however, did not become known to this Government until after the commencement of the last session of Congress.

Thus disappointed in our just expectations, it became my imperative duty to consult with Congress in regard to the expediency of a resort to retaliatory measures, in case the stipulations of the treaty should not be speedily complied with; and to recommend such as, in my judgment, the occasion called for. To this end, an unreserved communication of the case, in all its aspects, became indispensable. To have shrunk, in making it, from saying all that was necessary to its correct understanding, and that the truth would justify, for fear of giving offence to others, would have been unworthy of us. To have gone, on the other hand, a single step further, for the purpose of wounding the pride of a Government and people with whom we had so many motives for cultivating relations of amity and reciprocal advantage, would have been unwise and improper. Admonished by the past of

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the difficulty of making even the simplest statement of our wrongs, without disturbing the sensibilities of those who had, by their position, become responsible for their redress, and earnestly desirous of preventing further obstacles from that source, I went out of my way to preclude a construction of the message, by which the recommendation that was made to Congress might be regarded as a menace to France, in not only disavowing such a design, but in declaring that her pride and her power were too well known to expect any thing from her fears. The message did not reach Paris until more than a month after the Chambers had been in session; and such was the insensibility of the Ministry to our rightful claims and just expectations, that our Minister had been informed that the matter, when introduced, would not be pressed as a cabinet measure.

Although the message was not officially communicated to the French Government, and notwithstanding the declaration to the contrary which it contained, the French Ministry decided to consider the conditional recommendation of reprisals, a menace and an insult, which the honor of the nation made it incumbent on them to resent. The measures resorted to by them to evince their sense of the supposed indignity, were, the immediate recall of their Minister at Washington, the offer of passports to the American Minister at Paris, and a public notice to the Legislative Chambers, that all diplomatic intercourse with the United States had been suspended.

Having, in this manner, vindicated the dignity of France, they next proceeded to illustrate her justice. To this end a bill was immediately introduced into the Chamber of Deputies, proposing to make the appropriations necessary to carry into effect the treaty. As this bill subsequently passed into a law, the provisions of which now constitute the main subject of difficulty between the two nations, it becomes my duty, in order to place the subject before you in a clear light, to trace the history of its passage, and to refer, with some particularity, to the proceedings and discussions in regard to it. The Minister of Finance, in his opening speech, alluded to the measures which had been adopted to resent the supposed indignity, and recommended the execution of the treaty as a measure required by the honor and justice of France. He, as the organ of the Ministry, declared the message, so long as it had not received the sanction of Congress, a mere expression of the personal opinion of the President, for which neither the Government nor People of the United States were responsible, and that an engagement had been entered into, for the fulfilment of which the honor of France was pledged. Entertaining these views, the single condition which the French Ministry proposed to annex to the payment of the money was, that it should not be made until it was ascertained that the Government of the United States had done nothing to injure the interests of France; or, in other words, that no steps had been authorized by Congress of a hostile character towards France.

What the disposition or action of Congress might be, was then unknown to the French Cabinet. But, on the 14th of January, the Senate resolved that it was, at that time, inexpedient to adopt any legislative measures in regard to the state of affairs between the United States and France, and no

action on the subject had occurred in the House of Representatives. These facts were known in Paris prior to the 28th of March, 1835, when the committee, to whom the bill of indemnification had been referred, reported it to the Chamber of Deputies. That committee substantially re-echoed the sentiments of the Ministry, declared that Congress had set aside the proposition of the President, and recommended the passage of the bill without any other restriction than that originally proposed. Thus was it known to the French Ministry and Chambers, that if the position assumed by them, and which had been so frequently and solemnly announced as the only one compatible with the honor of France, was maintained, and the bill passed as originally proposed, the money would be paid, and there would be an end of this unfortunate controversy.

But this cheering prospect was soon destroyed by an amendment introduced into the bill at the moment of its passage, providing that the money should not be paid until the French Government had received satisfactory explanations of the President's message, of the 2d December, 1834; and what is still more extraordinary, the President of the Council of Ministers adopted this amendment, and consented to its incorporation in the bill. In regard to a supposed insult which had been formally resented by the recall of their Minister, and the offer of passports to ours, they now, for the first time, proposed to ask explanations. Sentiments and propositions, which they had declared could not justly be imputed to the Government or people of the United States, are set up as obstacles to the performance of an act of conceded justice to that Government and people. They had declared that the honor of France required the fulfilment of the engagement into which the King had entered, unless Congress adopted the recommendations of the message. They ascertained that Congress did not adopt them, and yet that fulfilment is refused, unless they first obtain from the President explanations of an opinion characterized by themselves as personal and inoperative.

The conception that it was my intention to menace or insult the Government of France, is as unfounded, as the attempt to extort from the fears of that nation what her sense of justice may deny, would be vain and ridiculous. But the Constitution of the United States imposes on the President the duty of laying before Congress the condition of the country, in its foreign and domestic relations, and of recommending such measures as may, in his opinion, be required by its interests. From the performance of this duty he cannot be deterred by the fear of wounding the sensibilities of the people or Government of whom it may become necessary to speak; and the American people are incapable of submitting to an interference, by any Government on earth, however powerful, with the free performance of the domestic duties which the constitution has imposed on their public functionaries. The discussions which intervene between the several departments of our Government belong to ourselves; and, for any thing said in them, our public servants are only responsible to their own constituents, and to each other. If, in the course of their consultations, facts are erroneously stated, or unjust deductions are made, they require no other inducement to correct them, however informed of their error, than their love of justice, and what is due to

their own character; but they can never submit to be interrogated upon the subject, as a matter of right, by a foreign power. When our discussions terminate in acts, our responsibility to foreign powers commences, not as individuals, but as a nation. The principle which calls in question the President for the language of his message, would equally justify a foreign power in demanding explanation of the language used in the report of a committee, or by a member in debate.

This is not the first time that the Government of France has taken exception to the messages of American Presidents. President Washington, and the first President Adams, in the performance of their duties to the American people, fell under the animadversions of the French Directory. The objection taken by the Ministry of Charles X. and removed by the explanations made by our Minister upon the spot, has already been adverted to. When it was understood that the Ministry of the present King took exception to my message of last year, putting a construction upon it which was disavowed on its face, our late Minister at Paris, in answer to the note which first announced a dissatisfaction with the language used in the message, made a communication to the French Government under date of the 29th of January, 1835, calculated to remove all impressions which an unreasonable susceptibility had created. He repeated, and called the attention of the French Government to, the disavowal contained in the message itself, of any intention to intimidate by menace—he truly declared that it contained, and was intended to contain, no charge of ill-faith against the King of the French, and properly distinguished between the right to complain in unexceptionable terms, of the omission to execute an agreement, and an accusation of bad motives in withholding such execution—and demonstrated, that the necessary use of that right ought not to be considered as an offensive imputation. Although this communication was made without instructions, and entirely on the Minister's own responsibility, yet it was afterwards made the act of this Government by my full approbation, and that approbation was officially made known on the 25th of April, 1835, to the French Government. It, however, failed to have any effect. The law, after this friendly explanation, passed with the obnoxious amendment, supported by the King's Ministers, and was finally approved by the King.

The people of the United States are justly attached to a pacific system in their intercourse with foreign nations. It is proper, therefore, that they should know whether their Government has adhered to it. In the present instance it has been carried to the utmost extent that was consistent with a becoming self-respect. The note of the 29th of January, to which I have before alluded, was not the only one which our Minister took upon himself the responsibility of presenting, on the same subject, and in the same spirit. Finding that it was intended to make the payment of a just debt dependent on the performance of a condition which he knew could never be complied with, he thought it a duty to make another attempt to convince the French Government, that whilst self-respect and a regard to the dignity of other nations would always prevent us from using any language that ought to give offence, yet we could never admit a right in any foreign Government to ask explanations of, or to interfere in any manner in, the communications

which one branch of our public councils made with another; that in the present case no such language had been used, and that this had in a former now been fully and voluntarily stated, before it was contemplated to make the explanation a condition: and that there might be no misapprehension, he stated the terms used in that note, and he officially informed them that it had been approved by the President: and that, therefore, every explanation which could reasonably be asked, or honorably given, had been already made—that the contemplated measure had been anticipated by a voluntary and friendly declaration, and was therefore not only useless, but might be deemed offensive, and certainly would not be complied with, if annexed as a condition.

When this latter communication, to which I specially invite the attention of Congress, was laid before me, I entertained the hope that the means it was obviously intended to afford, of an honorable and speedy adjustment of the difficulties between the two nations, would have been accepted, and I therefore did not hesitate to give it my sanction and full approbation. This was due to the Minister who had made himself responsible for the act; and it was published to the people of the United States, and is now laid before their representatives, to show how far their Executive has gone in its endeavors to restore a good understanding between the two countries. It would have been, at any time, communicated to the Government of France, had it been officially requested.

The French Government having received all the explanation which honor and principle permitted, and which could in reason be asked, it was hoped it would no longer hesitate to pay the instalments now due. The agent authorized to receive the money was instructed to inform the French Minister of his readiness to do so. In reply to this notice, he was told that the money could not then be paid, because the formalities required by the act of the Chambers had not been arranged.

Not having received any official communication of the intentions of the French Government, and anxious to bring, as far as practicable, this unpleasant affair to a close before the meeting of Congress, that you might have the whole subject before you, I caused our Chargé d'Affaires at Paris to be instructed to ask for the final determination of the French Government; and in the event of their refusal to pay the instalments now due, without further explanations, to return to the United States.

The result of this last application has not yet reached us, but is daily expected. That it may be favorable, is my sincere wish. France having now, through all the branches of her Government, acknowledged the validity of our claims, and the obligation of the treaty of 1831; and there really existing no adequate cause for further delay, will, at length, it may be hoped, adopt the course which the interests of both nations, not less than the principles of justice, so imperiously require. The treaty being once executed on her part, little will remain to disturb the friendly relations of the two countries, nothing, indeed, which will not yield to the suggestions of a pacific and enlightened policy, and to the influence of that mutual good will and of those generous recollections, which we may confidently expect will then be revived in all their ancient force. In any event, however, the principle involved in the new aspect which has been given to the controversy, is so vitally important to the independent

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administration of the Government, that it can neither be surrendered nor compromised, without national degradation. I hope it is unnecessary for me to say, that such a sacrifice will not be made through any agency of mine. The honor of my country shall never be stained by an apology from me, for the statement of truth and the performance of duty; nor can I give any explanation of my official acts, except such as is due to integrity and justice, and consistent with the principles on which our institutions have been framed. This determination will, I am confident, be approved by my constituents. I have, indeed, studied their character to but little purpose, if the sum of twenty-five millions of francs will have the weight of a feather, in the estimation of what appertains to their national independence; and if, unhappily, a different impression should at any time obtain in any quarter, they will, I am sure, rally round the Government of their choice with alacrity and unanimity, and silence forever the degrading imputation.

Having thus frankly presented to you the circumstances which, since the last session of Congress, have occurred in this interesting and important matter, with the views of the Executive in regard to them, it is at this time only necessary to add, that whenever the advices, now daily expected from our *Chargé d'Affaires*, shall have been received, they will be made the subject of a special communication.

The condition of the Public Finances was never more flattering than at the present period.

Since my last annual communication, all the remains of the Public Debt have been redeemed, or money has been placed in deposit for this purpose, whenever the creditors choose to receive it. All the other pecuniary engagements of the Government have been honorably and promptly fulfilled, and there will be a balance in the Treasury, at the close of the present year, of about nineteen millions of dollars. It is believed, that after meeting all outstanding and unexpended appropriations, there will remain near eleven millions to be applied to any new objects which Congress may designate, or to the more rapid execution of the works already in progress. In aid of these objects, and to satisfy the current expenditures of the ensuing year, it is estimated that there will be received, from various sources, twenty millions more in 1836.

Should Congress make new appropriations, in conformity with the estimates which will be submitted from the proper departments, amounting to about twenty-four millions, still the available surplus at the close of the next year, after deducting all unexpended appropriations, will probably be not less than six millions. This sum can, in my judgment, be now usefully applied to proposed improvements in our Navy Yards, and to new national works, which are not enumerated in the present estimates, or to the more rapid completion of those already begun. Either would be constitutional and useful, and would render unnecessary any attempt, in our present peculiar condition, to divide the surplus revenue, or to reduce it any faster than will be effected by the existing laws. In any event, as the annual report from the Secretary of the Treasury will enter into details, showing the probability of some decrease in the revenue during the next seven years, and a very considerable deduction in 1842, it is not recommended that Congress should undertake to modify the present tariff, so as to dis-

turb the principles on which the compromise act was passed. Taxation on some of the articles of general consumption, which are not in competition with our own productions, may be, no doubt, so diminished as to lessen, to some extent, the source of this revenue; and the same object can also be assisted by more liberal provisions for the subjects of public defence, which in the present state of our prosperity and wealth, may be expected to engage your attention. If, however, after satisfying all the demands which can arise from these sources, the unexpended balance in the Treasury should still continue to increase, it would be better to bear with the evil until the great changes contemplated in our tariff laws have occurred, and shall enable us to revise the system with that care and circumspection which are due to so delicate and important a subject.

It is certainly our duty to diminish, as far as we can, the burdens of taxation, and to regard all the restrictions which are imposed on the trade and navigation of our citizens as evils, which we shall mitigate whenever we are not prevented by the adverse legislation and policy of foreign nations, or those primary duties which the defence and independence of our country enjoin upon us. That we have accomplished much towards the relief of our citizens by the changes which have accompanied the payment of the public debt, and the adoption of the present revenue laws, is manifest from the fact that, compared with 1833, there is a diminution of near twenty-five millions in the last two years, and that our expenditures, independently of those for the public debt, have been reduced near nine millions during the same period. Let us trust, that by the continued observance of economy, and by harmonizing the great interests of agriculture, manufactures, and commerce, much more may be accomplished to diminish the burdens of Government, and to increase still further the enterprise and the patriotic affection of all classes of our citizens, and all the members of our happy Confederacy. As the data which the Secretary of the Treasury will lay before you, in regard to our financial resources, are full and extended, and will afford a safe guide in your future calculations, I think it unnecessary to offer any further observations on that subject here.

Among the evidences of the increasing prosperity of the country, not the least gratifying is that afforded by the receipts of the sales of the public lands, which amount in the present year, to the unexpected sum of \$11,000,000.—This circumstance attests the rapidity with which agriculture, the first and most important occupation of man, advances, and contributes to the wealth and power of our extended territory. Being still of the opinion that it is our best policy, as far as we can, consistently with the obligations under which those lands were ceded to the United States, to promote their speedy settlement, I beg leave to call the attention of the present Congress to the suggestions I have offered respecting it in my former messages.

The extraordinary receipts from the sales of the public lands invite you to consider what improvements the land system, and particularly the condition of the General Land Office, may require. At the time this institution was organized, near a quarter of a century ago, it would probably have been thought extravagant to anticipate, for this period, such an addition to its business as has been produced

by the vast increase of those sales during the past and present years. It may also be observed that, since the years 1812, the land offices and surveying districts have been greatly multiplied, and that numerous legislative enactments, from year to year, since that time, have imposed a great amount of new and additional duties upon that office; while the want of a timely application of force, commensurate with the care and labor required, has caused the increasing embarrassment of accumulated arrears in the different branches of the establishment.

These impediments to the expedition of much duty in the General Land Office induce me to submit to your judgment, whether some modification of the laws relating to its organization, or an organization of a new character, be not called for at the present juncture, to enable the office to accomplish all the ends of its institution with a greater degree of facility and promptitude than experience has proved to be practicable, under existing regulations. The variety of the concerns, and the magnitude and complexity of the details occupying and dividing the attention of the Commissioner, appear to render it difficult, if not impracticable, for that officer, by any possible assiduity, to bestow on all the multifarious subjects, upon which he is called to act, the ready and careful attention due to their respective importance; unless the Legislature shall assist him by a law providing, or enabling him to provide, for a more regular and economical distribution of labor, with the incident responsibility, among those employed under his direction. The mere manual operation of affixing his signature to the vast number of documents issuing from his office, subtracts so largely from the time and attention claimed by the weighty and complicated subjects daily accumulating in that branch of the public service, as to indicate the strong necessity of revising the organic law of the establishment. It will be easy for Congress, hereafter, to proportion the expenditure on account of this branch of the service to its real wants, by abolishing, from time to time, the offices which can be dispensed with.

The extinction of the Public Debt having taken place, there is no longer any use for the offices of Commissioners of Loans and of the Sinking Fund. I recommend, therefore, that they be abolished, and that proper measures be taken for the transfer, to the Treasury Department, of any funds, books, and papers, connected with the operations of those offices; and that the proper power be given to that Department for closing, finally, any portion of their business which may remain to be settled.

It is also incumbent on Congress, in guarding the pecuniary interests of the country, to discontinue, by such a law as was passed in 1812, the receipt of the bills of the Bank of the United States in payment of the public revenue; and to provide for the designation of an agent, whose duty it shall be to take charge of the books and stock of the United States in that institution, and to close all connection with it, after the 3d of March, 1836, when its charter expires. In making provision in regard to the disposition of this stock, it will be essential to define clearly and strictly, the duties and powers of the officers charged with that branch of the public service.

It will be seen from the correspondence which the Secretary of the Treasury will lay before you, that, notwithstanding the large amount of the stock which the United States hold in that institution, no

information has yet been communicated which will enable the Government to anticipate when it can receive any dividends, or derive any benefit from it.

Connected with the condition of the finances, and the flourishing state of the country in all its branches of industry, it is pleasing to witness the advantages which have been already derived from the recent laws regulating the value of the gold coinage. These advantages will be more apparent in the course of the next year, when the branch mints authorized to be established in North Carolina, Georgia, and Louisiana, shall have gone into operation. Aided, as it is hoped they will be, by further reforms in the banking systems of the States, and by judicious regulations on the part of Congress, in relation to the custody of the public moneys, it may be confidently anticipated that the use of gold and silver, as a circulating medium, will become general in the ordinary transactions, connected with the labor of the country. The great desideratum, in modern times, is an efficient check upon the power of banks, preventing that excessive issue of paper whence arise those fluctuations in the standard of value, which render uncertain the rewards of labor. It was supposed by those who established the Bank of the United States, that from the credit given to it by the custody of the public moneys, and other privileges, and the precautions taken to guard against the evils which the country had suffered in the bankruptcy of many of the State institutions of that period, we should derive from that institution all the security and benefits of a sound currency, and every good end that was attainable under that provision of the constitution which authorizes Congress alone to coin money and regulate the value thereof. But it is scarcely necessary now to say that these anticipations have not been realized. After the extensive embarrassment and distress recently produced by the Bank of the United States, from which the country is now recovering, aggravated as they were by pretensions to power which defied the public authority, and which, if acquiesced in by the people, would have changed the whole character of our Government, every candid and intelligent individual must admit that, for the attainment of the great advantages of a sound currency, we must look to a course of legislation radically different from that which created such an institution.

In considering the means of obtaining so important an end, we must set aside all calculations of temporary convenience, and be influenced by those only which are in harmony with the true character and the permanent interests of the Republic. We must recur to first principles, and see what it is that has prevented the legislation of Congress and the States, on the subject of currency, from satisfying the public expectation, and realizing results corresponding to those which have attended the action of our system when truly consistent with the great principle of equality upon which it rests, and with that spirit of forbearance and mutual concession, and generous patriotism, which was originally, and must ever continue to be, the vital element of our Union.

On this subject I am sure that I cannot be mistaken, in ascribing our want of success to the undue countenance which has been afforded to the spirit of monopoly. All the serious dangers which our system has yet encountered, may be traced to the resort to implied powers, and the use of corporations clothed with privileges, the effect of which is to ad-

se of the dangers of the Bank of the United States for the last thirty years, and the obviated for the sake of the people, that the principle of a safe and active one, which is in the same and in the hope of success, the nation of the people, or the representatives, to the subtle. The bank is, in fact, but a system at war with the genius of the system founded upon a political principle of which is a safe regulator of the money, and whose great ultimate object, should it prevail, is the concentration of power in our system in one central point. Lavish public disbursements, and the use of exclusive privileges, would be its ruin for the original, and, as yet, sound checks of the constitution—the means by which a silent and secret operation a control would be exercised by the few over the political conduct of the many, by first acquiring that control over the labor and earnings of the great body of the people. Wherever this spirit has effected an alliance with political power, tyranny and despotism have been the fruit. If it is ever used for the ends of government, it has to be incessantly watched, or it corrupts the sources of the public virtue, and agitates the country with questions unfavorable to the harmonious and steady pursuit of its true interests.

We are now to see whether, in the present favorable condition of the country, we cannot take an effectual stand against the spirit of monopoly, and practically prove, in respect to the currency as well as other important interests, that there is no necessity for so extensive a resort to it as that which has been heretofore practised. The experience of another year has confirmed the utter fallacy of the idea that the Bank of the United States was necessary as a fiscal agent of the Government. Without its aid, as such, indeed, in despite of all the embarrassment it was in its power to create, the revenue has been paid with punctuality by our citizens; the business of exchange, both foreign and domestic, has been conducted with convenience, and the circulating medium has been greatly improved. By the use of the State banks, which do not derive their charters from the General Government, and are not controlled by its authority, it is ascertained that the moneys of the United States can be collected and disbursed without loss or inconvenience, and that all the wants of the community, in relation to exchange and currency, are supplied as well as they have ever been before. If, under circumstances the most unfavorable to the steadiness of the money market, it has been found that the considerations on which the Bank of the United States rested its claims to the public favor were imaginary and groundless, it cannot be doubted that the experience of the future will be more decisive against them.

It has been seen, that without the agency of a great moneyed monopoly, the revenue can be collected, and conveniently and safely applied to all the purposes of the public expenditure. It is also ascertained that, instead of being necessarily made to promote the evils of an unchecked paper system,

the management of the revenue can be made auxiliary to the reform which the Legislatures of several of the States have already commenced in regard to the suppression of small bills; and which has only to be fostered by proper regulations on the part of Congress to secure a practical return, to the extent required for the security of the currency, to the constitutional medium. Severed from the Government as political engines, and not susceptible of dangerous extension and combination, the State banks will not be tempted, nor will they have the power which we have seen exercised, to divert the public funds from the legitimate purposes of the Government. The collection and custody of the revenue being, on the contrary, a source of credit to them, will increase the security which the States provide for a faithful execution of their trusts, by multiplying the scrutinies to which their operations and accounts will be subjected. Thus disposed, as well from interest as the obligations of their charters, it cannot be doubted that such conditions as Congress may see fit to adopt respecting the deposits in these institutions, with a view to the gradual disuse of the small bills, will be cheerfully complied with; and that we shall soon gain, in place of the Bank of the United States, a practical reform in the whole paper system of the country. If, by this policy, we can ultimately witness the suppression of all bank bills below twenty dollars, it is apparent that gold and silver will take their place, and become the principal circulating medium in the common business of the farmers and mechanics of the country. The attainment of such a result will form an era in the history of our country, which will be dwelt upon with delight by every true friend of its liberty and independence. It will lighten the great tax which our paper system has so long collected from the earnings of labor, and do more to revive and perpetuate those habits of economy and simplicity which are so congenial to the character of republicans, than all the legislation which has yet been attempted.

To this subject I feel that I cannot too earnestly invite the especial attention of Congress, without the exercise of whose authority, the opportunity to accomplish so much public good must pass unimproved. Deeply impressed with its vital importance, the Executive has taken all the steps within his constitutional power, to guard the public revenue, and defeat the expectation which the Bank of the United States indulged, of renewing and perpetuating its monopoly, on the ground of its necessity as a fiscal agent, and as affording a sounder currency than could be obtained without such an institution. In the performance of this duty much responsibility was incurred which would have been gladly avoided, if the stake which the public had in the question could have been otherwise preserved. Although clothed with the legal authority, and supported by precedent, I was aware that there was, in the act of the removal of the deposits, a liability to excite that sensitiveness to Executive power which it is the characteristic and the duty of freemen to indulge; but I relied on this feeling, also, directed by patriotism and intelligence, to vindicate the conduct which, in the end, would appear to have been called for by the best interests of my country. The apprehensions natural to this feeling, that there may have been a desire, through the instrumentality of that measure, to extend the Executive influence, or that it may have been prompted by motives not sufficiently free

from ambition, were not overlooked. Under the operation of our institutions, the public servant who is called on to take a step of high responsibility, should feel in the freedom which gives rise to such apprehensions, his highest security. When unfounded, the attention which they arouse, and the discussions they excite, deprive those who indulge them, of the power to do harm: when just, they but hasten the certainty with which the great body of our citizens never fail to repel an attempt to procure their sanction to any exercise of power inconsistent with the jealous maintenance of their rights. Under such convictions, and entertaining no doubt that my constitutional obligations demanded the steps which were taken in reference to the removal of the deposits, it was impossible for me to be deterred from the path of duty, by a fear that my motives could be misjudged, or that political prejudices could defeat the just consideration of the merits of my conduct. The result has shown how safe is this reliance upon the patriotic temper and enlightened discernment of the people. That measure has now been before them, and has stood the test of all the severe analysis which its general importance, the interests it affected, and the apprehensions it excited, were calculated to produce: and it now remains for Congress to consider what legislation has become necessary in consequence.

I need only add to what I have, on former occasions, said on this subject generally, that in the regulations which Congress may prescribe respecting the custody of the public moneys, it is desirable that as little discretion as may be deemed consistent with their safe keeping should be given to the Executive agents. No one can be more deeply impressed than I am with the soundness of the doctrine which restrains and limits, by specific provisions, Executive discretion, as far as it can be done consistently with the preservation of its constitutional character. In respect to the control over the public money, this doctrine is peculiarly applicable, and is in harmony with the great principle which I felt I was sustaining in the controversy with the Bank of the United States; which has resulted in severing, to some extent, a dangerous connection between a moneyed and political power. The duty of the legislature to define, by clear and positive enactment, the nature and extent of the action which it belongs to the Executive to superintend, springs out of a policy analogous to that which enjoins upon all the branches of the Federal Government an abstinence from the exercise of powers not clearly granted. In such a Government, possessing only limited and specific powers, the spirit of its general administration cannot be wise or just, when it opposes the reference of all doubtful points to the great source of authority, the States and the people, whose number and diversified relations, securing them against the influences and excitements which may mislead their agents, make them the safest depository of power. In its application to the Executive, with reference to the Legislative branch of the Government, the same rule of action should make the President ever anxious to avoid the exercise of any discretionary authority, which can be regulated by Congress. The biases which may operate upon him will not be so likely to extend to the representatives of the people in that body.

In my former messages to Congress I have repeatedly urged the propriety of lessening the discretionary authority lodged in the various Depart-

ments, but it has produced no effect as yet, except the discontinuance of extra allowances in the Army and Navy, and the substitution of fixed salaries in the latter. It is believed that the same principles could be advantageously applied, in all cases, and would promote the efficiency and economy of the public service, at the same time that greater satisfaction and more equal justice would be secured to the public officers generally.

The accompanying Report of the Secretary of War will put you in possession of the operations of the Department confided to his care, in all its diversified relations, during the past year.

I am gratified in being able to inform you that no occurrence has required any movement of the military force, except such as is common to a state of peace. The services of the army have been limited to their usual duties at the various garrisons upon the Atlantic and inland frontier, with the exceptions stated by the Secretary of War. Our small military establishment appears to be adequate to the purposes for which it is maintained, and it forms a nucleus around which any additional force may be collected, should the public exigencies unfortunately require any increase of our military means.

The various acts of Congress which have been recently passed in relation to the army, have improved its condition, and have rendered its organization more useful and efficient. It is at all times in a state for prompt and vigorous action, and it contains within itself the power of extension to any useful limit; while, at the same time, it preserves that knowledge, both theoretical and practical, which education and experience alone can give; and which, if not acquired and preserved in time of peace, must be sought under great disadvantages in time of war.

The duties of the Engineer Corps press heavily upon that branch of the service; and the public interest requires an addition to its strength. The nature of the works in which the officers are engaged, render necessary professional knowledge and experience, and there is no economy in committing to them more duties than they can perform, or in assigning these to other persons temporarily employed, and too often, of necessity, without all the qualifications which such service demands. I recommend this subject to your attention, and also the proposition submitted at the last session of Congress, and now renewed, for a re-organization of the Topographical Corps. This re-organization can be effected without any addition to the present expenditure, and with much advantage to the public service. The branch of duties which devolves upon these officers is at all times interesting to the community, and the information furnished by them is useful in peace and in war.

Much loss and inconvenience have been experienced in consequence of the failure of the bill containing the ordinary appropriations for fortifications, which passed one branch of the National Legislature at the last session, but was lost in the other. This failure was the more regretted, not only because it necessarily interrupted and delayed the progress of a system of national defence, projected immediately after the last war, and since steadily pursued, but also because it contained a contingent appropriation inserted in accordance with the views of the Executive in aid of this important object, and other branches of the national defence, some portions of which might have been most usefully

DECEMBER, 1835.]

The President's Message.

[SENATE.]

applied during the past season. I invite your early attention to that part of the report of the Secretary of War which relates to this subject, and recommend an appropriation sufficiently liberal to accelerate the armament of the fortifications, agreeably to the proposition submitted by him, and to place our whole Atlantic seaboard in a complete state of defence. A just regard to the permanent interests of the country evidently requires this measure, but there are also other reasons which, at the present juncture, give it peculiar force, and make it my duty to call to the subject your special consideration.

The present system of Military Education has been in operation sufficiently long to test its usefulness, and it has given to the army a valuable body of officers. It is not alone in the improvement, discipline, and operation of the troops, that these officers are employed. They are also extensively engaged in the administrative and fiscal concerns of the various matters confided to the War Department; in the execution of the staff duties, usually appertaining to military organization; in the removal of the Indians, and in the disbursements of the various expenditures growing out of our Indian relations; in the formation of roads and in the improvement of harbors and rivers; in the construction of fortifications, in the fabrication of much of the *material* required for the public defence; and in the preservation, distribution, and accountability of the whole; and in other miscellaneous duties, not admitting of classification.

These diversified functions embrace very heavy expenditures of public money, and require fidelity, science, and business habits in their execution; and a system which shall secure these qualifications is demanded by the public interest. That this object has been, in a great measure, obtained by the Military Academy, is shown by the state of the service, and by the prompt accountability which has generally followed the necessary advances. Like all other political systems, the present mode of military education, no doubt, has its imperfections, both of principle and practice; but I trust these can be improved by rigid inspections, and by legislative scrutiny, without destroying the institution itself.

Occurrences, to which we as well as all other nations are liable, both in our internal and external relations, point to the necessity of an efficient organization of the Militia. I am again induced, by the importance of the subject, to bring it to your attention. To suppress domestic violence, and to repel foreign invasion, should these calamities overtake us, we must rely, in the first instance, upon the great body of the community, whose will has been instituted, and whose power must support the Government. A large standing military force is not consonant to the spirit of our institutions, nor to the feelings of our countrymen; and the lessons of former days, and those also of our own times, show the danger, as well as the enormous expense, of these permanent and extensive military organizations. That just medium which avoids an inadequate preparation on one hand, and the danger and expense of a large force on the other, is what our constituents have a right to expect from their Government. This object can be attained only by the maintenance of a small military force, and by such an organization of the physical strength of the country as may bring this power into operation, whenever its services are required. A classification

of the population offers the most obvious means of effecting this organization. Such a division may be made as will be just to all, by transferring each, at a proper period of life, from one class to another, and by calling first for the services of that class, whether for instruction or action, which, from age, is qualified for the duty, and may be called to perform it with least injury to themselves, or to the public. Should the danger ever become so imminent as to require additional force, the other classes in succession would be ready for the call. And if, in addition to this organization, voluntary associations were encouraged, and inducements held out for their formation, our militia would be in a state of efficient service. Now, when we are at peace, is the proper time to digest and establish a practicable system. The object is certainly worth the experiment, and worth the expense. No one appreciating the blessings of a republican government, can object to his share of the burden which such a plan may impose. Indeed, a moderate portion of the national funds could scarcely be better applied than in carrying into effect and continuing such an arrangement, and in giving the necessary elementary instruction. We are happily at peace with all the world. A sincere desire to continue so, and a fixed determination to give no just cause of offence to other nations, furnish, unfortunately, no certain grounds of expectation that this relation will be uninterrupted. With this determination to give no offence is associated a resolution, equally decided, tamely to submit to none. The armor and the attitude of defence afford the best security against those collisions which the ambition, or interest, or some other passion of nations, not more justifiable, is liable to produce. In many countries, it is considered unsafe to put arms into the hands of the people, and to instruct them in the elements of military knowledge. That fear can have no place here, when it is recollected that the people are the sovereign power. Our Government was instituted, and is supported, by the ballot-box, not by the musket. Whatever changes await it, still greater changes must be made in our social institutions, before our political system can yield to physical force. In every aspect, therefore, in which I can view the subject, I am impressed with the importance of a prompt and efficient organization of the militia.

The plan of removing the Aboriginal people who yet remain within the settled portions of the United States, to the country west of the Mississippi River, approaches its consummation. It was adopted on the most mature consideration of the condition of this race, and ought to be persisted in till the object is accomplished, and prosecuted with as much vigor as a just regard to their circumstances will permit, and as fast as their consent can be obtained. All preceding experiments for the improvement of the Indians have failed. It seems now to be an established fact, that they cannot live in contact with a civilized community and prosper. Ages of fruitless endeavors, have at length brought us to a knowledge of this principle of intercommunication with them. The past we cannot recall, but the future we can provide for. Independently of the treaty stipulations, into which we have entered with the various tribes, for the usufructuary rights they have ceded to us, no one can doubt the moral duty of the Government of the United States to protect, and, if possible, to preserve and perpetuate the

scattered remnants of this race, which are left within our borders. In the discharge of this duty, an extensive region in the West has been assigned for their permanent residence. It has been divided into districts, and allotted among them. Many have already removed, and others are preparing to go; and with the exception of two small bands, living in Ohio and Indiana, not exceeding fifteen hundred persons, and of the Cherokees, all the tribes on the east side of the Mississippi, and extending from Lake Michigan to Florida, have entered into engagements which will lead to their transplantation.

The plan for their removal and re-establishment is founded upon the knowledge we have gained of their character and habits, and has been dictated by a spirit of enlarged liberality. A territory exceeding in extent that relinquished, has been granted to each tribe. Of its climate, fertility, and capacity to support an Indian population, the representations are highly favorable. To these districts the Indians are removed at the expense of the United States; and, with certain supplies of clothing, arms, ammunition, and other indispensable articles, they are also furnished gratuitously with provisions for the period of a year after their arrival at their new homes. In that time, from the nature of the country, and of the products raised by them, they can subsist themselves by agricultural labor, if they choose to resort to that mode of life; if they do not, they are upon the skirts of the great prairies, where countless herds of buffalo roam, and a short time suffices to adapt their own habits to the changes which a change of the animals destined for their food may require. Ample arrangements have also been made for the support of schools, in some instances council houses and churches are to be erected, dwellings constructed for the chiefs, and mills for common use. Funds have been set apart for the maintenance of the poor; the most necessary mechanical arts have been introduced, and blacksmiths, gunsmiths, wheelwrights, millwrights, &c., are supported among them. Steel and iron, and sometimes salt, are purchased for them; and ploughs, and other farming utensils, domestic animals, looms, spinning wheels, cards, &c., are presented to them. And besides these beneficial arrangements, annuities are, in all cases paid, amounting, in some instances, to more than thirty dollars for each individual of the tribe, and in all cases sufficiently great, if justly divided and prudently expended, to enable them, in addition to their own exertions, to live comfortably. And, as a stimulus for exertion, it is now provided by law, that "in all cases of the appointment of interpreters, or other persons employed for the benefit of the Indians, a preference shall be given to persons of Indian descent, if such can be found who are properly qualified for the discharge of the duties."

Such are the arrangements for the physical comfort, and for the moral improvement of the Indians. The necessary measures for their political advancement, and for their separation from our citizens, have not been neglected. The pledge of the United States has been given by Congress, that the country destined for the residence of this people, shall be forever "secured and guaranteed to them." A country, west of Missouri and Arkansas, has been assigned to them, into which the white settlements are not to be pushed. No political commu-

nities can be formed in that extensive region, except those which are established by the Indians themselves, or by the United States for them, and with their concurrence. A barrier has thus been raised for their protection against the encroachments of our citizens, and guarding the Indians, as far as possible, from those evils which have brought them to their present condition. Summary authority has been given, by law, to destroy all ardent spirits found in their country, without waiting the doubtful result and slow process of a legal seizure. I consider the absolute and unconditional interdiction of this article, among those people, as the first and great step in their melioration. Half-way measures will answer no purpose. These cannot successfully contend against the cupidity of the seller, and the overpowering appetite of the buyer. And the destructive effects of the traffic are marked in every page of the history of our Indian intercourse.

Some general legislation seems necessary for the regulation of the relations which will exist in this new state of things between the Government and people of the United States, and these transplanted Indian tribes; and for the establishment among the latter, and with their own consent, of some principles of intercommunication, which their juxtaposition will call for; that moral may be substituted for physical force; the authority of a few and simple laws, for the tomahawk; and that an end may be put to those bloody wars, whose prosecution seems to have made a part of their social system.

After the further details of this arrangement are completed, with a very general supervision over them, they ought to be left to the progress of events. These, I indulge the hope, will secure their prosperity and improvement; and a large portion of the moral debt we owe them will then be paid.

The Report from the Secretary of the Navy, showing the condition of that branch of the public service, is recommended to your special attention. It appears from it, that our naval force at present in commission, with all the activity which can be given to it, is inadequate to the protection of our rapidly increasing commerce. This consideration, and the more general one which regards this arm of the national defence as our best security against foreign aggressions, strongly urge the continuance of the measures which promote its gradual enlargement, and a speedy increase of the force which has been heretofore employed abroad and at home. You will perceive from the estimates which appear in the report of the Secretary of the Navy, that the expenditures necessary to this increase of its force, though of considerable amount, are small compared with the benefits which they will secure to the country.

As a means of strengthening this national arm, I also recommend to your particular attention the propriety of the suggestion which attracted the consideration of Congress at its last session, respecting the enlistment of boys at a suitable age in the service. In this manner a nursery of skilful and able-bodied seamen can be established, which will be of the greatest importance. Next to the capacity to put afloat and arm the requisite number of ships, is the possession of the means to man them efficiently; and nothing seems better calculated to aid this object than the measure proposed. As an auxiliary to the advantages derived from our extensive commercial marine, it would furnish us with a resource ample enough for all the exigen-

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The President's Message.

[SENATE.]

cies which can be anticipated. Considering the state of our resources, it cannot be doubted that whatever provision the liberality and wisdom of Congress may now adopt, with a view to the perfect organization of this branch of our service, will meet the approbation of all classes of our citizens.

By the report of the Postmaster General, it appears that the revenue of that department during the year ending on the 30th day of June last, exceeded its accruing responsibilities \$236,206; and that the surplus of the present fiscal year is estimated at \$476,227. It further appears that the debt of the department, on the first day of July last, including the amount due to contractors for the quarter then just expired, was about \$1,064,381, exceeding the available means about \$23,700; and that, on the 1st instant, about \$597,077 of this debt had been paid; \$409,991 out of postages accruing before July, and \$187,086 out of postages accruing since. In these payments are included \$67,000 of the old debt due to banks. After making these payments, the department had \$73,000 in bank on the 1st instant. The pleasing assurance is given, that the department is entirely free from embarrassment, and that, by collection of outstanding balances, and using the current surplus, the remaining portion of the bank debt, and most of the other debt, will probably be paid in April next, leaving thereafter a heavy amount to be applied in extending the mail facilities of the country. Reserving a considerable sum for the improvement of existing mail routes, it is stated that the department will be able to sustain with perfect convenience an annual charge of \$300,000 for the support of new routes, to commence as soon as they can be established and put in operation.

The measures adopted by the Postmaster General to bring the means of the department into action, and to effect a speedy extinguishment of its debt, as well as to produce an efficient administration of its affairs, will be found detailed at length in this able and luminous report. Aided by a reorganization on the principles suggested, and such salutary provisions in the laws regulating its administrative duties as the wisdom of Congress may devise or approve, that important department will soon attain a degree of usefulness proportioned to the increase of our population and the extension of our settlements.

Particular attention is also solicited to that portion of the report of the Postmaster General which relates to the carriage of the Mails of the United States upon railroads constructed by private corporations under the authority of the several States. The reliance which the General Government can place on these roads as a means of carrying on its operations, and the principles on which the use of them is to be obtained, cannot be too soon considered and settled. Already does the spirit of monopoly begin to exhibit its natural propensities, in attempts to extract from the public, for services which it supposes cannot be obtained on other terms, the most extravagant compensation. If these claims be persisted in, the question may arise whether a combination of citizens, acting under charters of incorporation from the States, can, by a direct refusal, or the demand of an exorbitant price, exclude the United States from the use of the established channels of communication between the different sections of the country; and whether the United States cannot, without tran-

scending their constitutional powers, secure to the Post Office Department the use of those roads, by an act of Congress, which shall provide within itself some equitable mode of adjusting the amount of compensation. To obviate, if possible, the necessity of considering this question, it is suggested whether it be not expedient to fix by law the amounts which shall be offered to railroad companies for the conveyance of the mails, graduated according to their average weight, to be ascertained and declared by the Postmaster General. It is probable that a liberal proposition of that sort would be accepted.

In connection with these provisions in relation to the Post Office Department, I must also invite your attention to the painful excitement produced in the South, by attempts to circulate through the mails inflammatory appeals addressed to the passions of the slaves, in prints, and in various sorts of publications, calculated to stimulate them to insurrection, and to produce all the horrors of a servile war. There is, doubtless, no respectable portion of our countrymen who can be so far misled as to feel any other sentiment than that of indignant regret at conduct so destructive of the harmony and peace of the country, and so repugnant to the principles of our national compact, and to the dictates of humanity and religion. Our happiness and prosperity essentially depend upon peace within our borders—and peace depends upon the maintenance, in good faith, of those compromises of the constitution upon which the Union is founded. It is fortunate for the country that the good sense, the generous feeling, and the deep-rooted attachment of the people of the non-slaveholding States to the Union, and to their fellow-citizens of the same blood in the South, have given so strong and impressive a tone to the sentiments entertained against the proceedings of the misguided persons who have engaged in these unconstitutional and wicked attempts, and especially against the emissaries from foreign parts who have dared to interfere in this matter, as to authorize the hope that those attempts will no longer be persisted in. But if these expressions of the public will shall not be sufficient to effect so desirable a result, not a doubt can be entertained that the non-slaveholding States, so far from countenancing the slightest interference with the constitutional rights of the South, will be prompt to exercise their authority in suppressing, so far as in them lies, whatever is calculated to produce this evil.

In leaving the care of other branches of this interesting subject to the State authorities, to whom they properly belong, it is nevertheless proper for Congress to take such measures as will prevent the Post Office Department, which was designed to foster an amicable intercourse and correspondence between all the members of the Confederacy, from being used as an instrument of an opposite character. The General Government, to which the greatest trust is confided, of preserving inviolate the relations created among the States by the constitution, is especially bound to avoid, in its own action, any thing that may disturb them. I would, therefore, call the special attention of Congress to the subject, and respectfully suggest the propriety of passing such a law as will prohibit, under severe penalties, the circulation in the Southern States, through the mail, of incendiary publications intended to instigate the slaves to insurrection.

I felt it to be my duty, in the first message which

I communicated to Congress, to urge upon its attention the propriety of amending that part of the constitution which provides for the election of President and Vice President of the United States. The leading object which I had in view was the adoption of some new provisions, which would secure to the people the performance of this high duty, without any intermediate agency. In my annual communications since, I have enforced the same views, from a sincere conviction that the best interests of the country would be promoted by their adoption. If the subject were an ordinary one, I should have regarded the failure of Congress to act upon it as an indication of their judgment, that the disadvantages which belong to the present system were not so great as those which would result from any attainable substitute that had been submitted to their consideration. Recollecting, however, that propositions to introduce a new feature in our fundamental laws cannot be too patiently examined, and ought not to be received with favor, until the great body of the people are thoroughly impressed with their necessity and value, as a remedy for real evils, I feel that in renewing the recommendation I have heretofore made on this subject, I am not transcending the bounds of a just deference to the sense of Congress, or to the disposition of the people. However much we may differ in the choice of the measures which should guide the administration of the Government, there can be but little doubt in the minds of those who are really friendly to the republican features of our system, that one of its most important securities consists in the separation of the Legislative and Executive powers, at the same time that each is held responsible to the great source of authority, which is acknowledged to be supreme, in the will of the people constitutionally expressed. My reflection and experience satisfy me, that the framers of the constitution, although they were anxious to mark the feature as a settled and fixed principle in the structure of the Government, did not adopt all the precautions that were necessary to secure its practical observance, and that we cannot be said to have carried into complete effect their intentions until the evils which arise from this organic defect are remedied.

Considering the great extent of our Confederacy, the rapid increase of its population, and the diversity of their interests and pursuits, it cannot be disguised that the contingency by which one branch of the Legislature is to form itself into an electoral college, cannot become one of ordinary occurrence, without producing incalculable mischief. What was intended as the medicine of the constitution in extreme cases, cannot be frequently used without changing its character, and, sooner or later, producing incurable disorder.

Every election by the House of Representatives is calculated to lessen the force of that security which is derived from the distinct and separate character of the Legislative and Executive functions, and, while it exposes each to temptations adverse to their efficiency as organs of the constitution and laws, its tendency will be to unite both in resisting the will of the people, and thus give a direction to the Government anti-republican and dangerous. All history tells us that a free people should be watchful of delegated power, and should never acquiesce in a practice which will diminish their control over it. This obligation, so universal

in its application to all the principles of a republic, is peculiarly so in ours, where the formation of parties founded on sectional interests is so much fostered by the extent of our territory. These interests, represented by candidates for the Presidency, are constantly prone, in the zeal of party and selfish objects, to generate influence unmindful of the general good, and forgetful of the restraints which the great body of the people would enforce, if they were, in no contingency, to lose the right of expressing their will. The experience of our country, from the formation of the Government to the present day, demonstrates that the people cannot too soon adopt some stronger safeguard for their right to elect the highest officer known to the constitution, than is contained in that sacred instrument as it now stands.

It is my duty to call the particular attention of Congress to the present condition of the District of Columbia. From whatever cause the great depression has arisen which now exists in the pecuniary concerns of this District, it is proper that its situation should be fully understood, and such relief or remedies provided as are consistent with the powers of Congress. I earnestly recommend the extension of every political right to the citizens of the District which their true interests require, and which does not conflict with the provisions of the constitution. It is believed that the laws for the government of the District require revision and amendment, and that much good may be done by modifying the penal code, so as to give uniformity to its provisions.

Your attention is also invited to the defects which exist in the judicial system of the United States. As at present organized, the States of the Union derive unequal advantages from the Federal Judiciary, which have been so often pointed out that I deem it unnecessary to repeat them here. It is hoped that the present Congress will extend to all the States that equality in respect to the benefits of the laws of the Union which can only be secured by the uniformity and efficiency of the Judicial system.

With these observations on the topics of general interest which are deemed worthy of your consideration, I leave them to your care, trusting that the legislative measures they call for will be met as the wants and the best interests of our beloved country demand.

ANDREW JACKSON.

WASHINGTON, 7th December, 1835.

On motion of Mr. GRUNDY, 5,000 extra copies of the Message, and 1,500 copies of the accompanying documents, were ordered to be printed for the use of the Senate.

Mr. CLAY presented the credentials of the honorable JOHN J. CRITTENDEN, elected by the Legislature of Kentucky from that State, to serve for six years from the 4th of March last.

The VICE PRESIDENT presented the annual report of the Secretary of the Treasury on the finances.

Death of Mr. Smith.

Mr. TOMLINSON then rose, and addressed the Senate as follows:

Mr. President: It has become my painful duty to announce to the Senate the death of the

DECEMBER, 1835.]

State of Michigan.

[SENATE.]

honorable NATHAN SMITH, late a Senator from the State of Connecticut.

Arriving in this city, apparently in the full possession and exercise of all his powers, my colleague and friend interchanged the kind salutations appropriate to the occasion, with the cordiality, and frankness, and vivacity, which characterized his social intercourse, and secured the attachment and confidence of those with whom he was intimately associated. He retired to rest on Saturday evening, as far as was observed, in the enjoyment of his accustomed health and spirits. Feeling indisposed, he rose from his bed, and obtained the advice of a medical friend, who subsequently left his apartment without the slightest apprehension of a fatal result. In a short time his altered appearance caused alarm, and his friend was again called. On his return, the heart had ceased to beat, and he expired in his chair on Sunday morning, about half-past one o'clock, without a struggle or a groan. Thus unexpectedly and awfully was our late associate and friend summoned from a state of probation and trial, into the presence of the Divine Redeemer and Judge, in whom he devoutly professed to believe and trust. May this renewed demonstration of the solemn truth, that in the midst of life we are in death, produce its proper effect on our hearts and lives, and be instrumental in preparing us for the judgment to come and the retributions of eternity.

The afflictive event which has cast such a gloom over this body, cannot fail to excite profound sensibility and regret throughout the Union, as well as in the native State of the deceased, where he has long been ranked among her most able and distinguished lawyers and statesmen. While we lament the inscrutable Providence with humble submission, it becomes us to be still, knowing that the destinies of men and nations are in the hands of an omnipotent and holy God, whose dispensations are merciful and right.

With the Senate, sir, I leave the adoption of the measures requisite to manifest its high respect for the character and memory of the deceased.

Mr. SWIFT then moved the following resolutions, which were adopted unanimously :

Resolved, That a committee be appointed to take order for superintending the funeral of the honorable NATHAN SMITH, which will take place to-morrow at 12 o'clock ; that the Senate will attend the same ; and that notice of the event be given to the House of Representatives.

[The committee under this resolution consists of Messrs. SWIFT, KNIGHT, TALLMADGE, SOUTHARD, and SHEPLEY.]

Resolved, That the members of the Senate, from a sincere desire of showing every mark of respect due to the memory of the honorable NATHAN SMITH, deceased, late a member thereof, will go into mourning for him one month, by the usual mode of wearing crape round the left arm.

Resolved, That, as an additional mark of respect for the memory of the honorable NATHAN SMITH, the Senate do now adjourn.

The Senate then adjourned.

WEDNESDAY, December 9.

On motion of Mr. KING, of Alabama, the Senate adjourned, for the purpose of performing the obsequies of the late honorable NATHAN SMITH, of Connecticut, deceased.

The President of the United States, with the heads of the Executive Departments, the Postmaster General, and the Attorney-General, and the members of the House of Representatives, with their Speaker and Clerk, having been received into the Senate Chamber, and taken the seats assigned them, the corpse was brought in, in charge of the committee of arrangements and pall-bearers, attended by the Sergeant-at-arms of the Senate.

Divine service was performed by the Rev. Mr. Higbee ; after which,

The funeral procession moved to the place of interment.

THURSDAY, December 10.

State of Michigan.

The following Message was received from the President of the United States :

WASHINGTON, December 9, 1835.

To the Senate and House of Representatives :

GENTLEMEN : By the act of the 11th of January, 1805, all that part of the Indiana Territory lying north of a line drawn due " east from the southerly bend or extremity of Lake Michigan until it shall intersect Lake Erie, and east of a line drawn from the said southerly bend, through the middle of said lake, to its northern extremity, and thence, due north, to the northern boundary of the United States," was erected into a separate Territory by the name of Michigan.

The Territory comprised within these limits being part of the district of country described in the ordinance of the 13th of July, 1787, which provides that, whenever any of the States into which the same should be divided, should have sixty thousand free inhabitants, such State should be admitted by its delegates " into the Congress of the United States, on an equal footing with the original States in all respects whatever, and shall be at liberty to form a permanent constitution and State Government, provided the constitution and Government so to be formed shall be republican, and in conformity to the principles contained in these articles," the inhabitants thereof have, during the present year, in pursuance of the right secured by the ordinance, formed a constitution and State Government. That instrument, together with various other documents connected therewith, has been transmitted to me for the purpose of being laid before Congress, to whom the power and duty of admitting new States into the Union exclusively appertains ; and the whole are herewith communicated for your early decision.

ANDREW JACKSON.

The Message having been read,

Mr. BENTON moved that it be printed, together with the accompanying documents, and that the whole subject be referred to a select committee, consisting of five members; which motion was carried; and,

On motion of Mr. MANGUM, the appointment of the committee was postponed to Monday next.

Michigan Senators.

Mr. BENTON presented the credentials of JOHN NORVELL and LUCIUS LYON, elected Senators for the term of six years from the 4th of March last, from the Territory of Michigan, and moved that the courtesy of the Senate be extended to them, by assigning seats to the new Senators, in the customary mode under similar circumstances, on the floor of the Senate.

Mr. EWING stated that this was a new matter, brought before the Senate for the first time this morning, and required, perhaps, some consideration. In order to afford a little time for consideration, and to examine the course of the Senate in similar circumstances, he moved, for the present, to lay the subject on the table.

The motion was agreed to.

The Senate adjourned.

MONDAY, December 14.

Mr. GOLDSBOROUGH, of Maryland, appeared, and took his seat.

Death of Mr. Kane.

Mr. ROBINSON addressed the Senate to the following effect:

Mr. President: It is true, "in the midst of life we are in death," and another inscrutable dispensation of Providence has given us renewed cause of painful sorrow and grief. ELIAS KENT KANE is no more! He, with whom many in this chamber have been here associated for the last ten years, has left this "for another and a better world." No eulogy is necessary to remind his associates of his many virtues and amiable traits of character; their rehearsal would but add poignancy to our loss. As his colleague, I must be indulged in saying death has taken from me a most valued friend; from his State and country an able Senator and an honest man; from his bereaved wife and orphan children the kindest of husbands, the most indulgent of parents. He died at half-past one o'clock last Friday night, of a relapse of fever with which he had been afflicted previous to leaving home.

I offer for adoption these melancholy resolutions:

Resolved, That a committee be appointed to take order for superintending the funeral of the Hon. ELIAS K. KANE, which will take place this day at half past 12 o'clock; and that the Senate will attend the same; and that notice of the event be given to the House of Representatives.

This resolution was unanimously adopted.

[The committee appointed under this resolution are Messrs. BENTON, CLAYTON, HENDERICKS, CRITTENDEN, and WRIGHT.]

Resolved, That the members of the Senate, from a sincere desire of showing every mark of respect due to the memory of the Hon. ELIAS K. KANE, deceased, late a member thereof, will go into mourning for him one month, by the usual mode of wearing crape around the left arm.

This resolution was unanimously adopted.

Death of Mr. Wildman.

A message was received from the House of Representatives, announcing to the Senate the adoption of certain resolutions, in consequence of the death of the Hon. Z. WILDMAN, a member of that House.

Mr. TOMLINSON stated that, in consequence of the melancholy information contained in this message, he would offer the following resolution:

Resolved, unanimously, That the members of the Senate, as a further testimony of respect for the memory of the Hon. ZALMON WILDMAN, late a member of the House of Representatives from the State of Connecticut, will go into mourning, by wearing crape around the left arm for thirty days.

The resolution was adopted.

Mr. ROBINSON then offered the following resolution, which was adopted:

Resolved, That, as an additional mark of respect for the memory of the Hon. ELIAS K. KANE, the Senate now adjourn.

[The President of the United States and the heads of the Departments, the Vice President and members of the Senate, the Speaker and members of the House of Representatives, then assembled in the Senate chamber, the corpse of the deceased was brought in, in charge of the committee of arrangements attended by the Sergeant-at-arms of the Senate; and divine service was performed by the Rev. Mr. Post; after which the funeral procession moved to the place of interment.]

TUESDAY, December 15.

Mr. WEBSTER appeared to-day, and took his seat.

Election of Officers.

The CHAIR announced that the election of the officers of the Senate was now in order; and the Senate proceeded to ballot for Secretary.

WALTER LOWRIE was unanimously re-elected.

The Senate proceeded to ballot for Sergeant-at-arms and Doorkeeper, when it appeared JOHN SHACKFORD was re-elected.

The Senate proceeded to ballot for Assistant Doorkeeper, and STEPHEN HAIGHT was re-elected.

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Incendiary Publications.

[SENATE.]

WEDNESDAY, December 16.

Mr. CALHOUN and Mr. PRESTON, from South Carolina, appeared, and took their seats.
The Senate adjourned to Monday.

MONDAY, December 21.

Mr. TOMLINSON presented the credentials of JOHN M. NILES, appointed by the Executive of Connecticut to fill the vacancy occasioned by the death of the honorable NATHAN SMITH, and Mr. NILES took his seat.

Smithsonian Institution.

A Message was received from the President of the United States:

To the Senate and House of Representatives of the United States:

I transmit to Congress a report from the Secretary of State, accompanying copies of certain papers relating to a bequest to the United States, by Mr. James Smithson, of London, for the purpose of founding, at Washington, an establishment, under the name of the "Smithsonian Institution," for the diffusion of knowledge among men. The Executive having no authority to take any steps for accepting the trust and obtaining the funds, the papers are communicated with a view to such measures as Congress may deem necessary.

ANDREW JACKSON.

WASHINGTON, December 17, 1835.

The Message and documents were ordered to lie on the table.

Incendiary Publications.

Mr. CALHOUN moved that so much of the President's Message as relates to the transmission of incendiary publications by the United States mail be referred to a special committee.

Mr. C. said that this was a subject of such importance as, in his opinion, to require the appointment of a special committee. It was one which involved questions of a complicated character, and such as did not properly come within the duties of the Committee on the Post Office and Post Roads, touching as they did on the constitutional powers of the Government. Another reason for the appointment of a special committee was to be found in the fact that, in the construction of the standing committees, there was only a single gentleman from that section of the country which was most deeply interested in the proper disposition of this very important subject. He did not anticipate any opposition to the motion, and hoped it would be at once adopted.

Mr. KING, of Alabama, expressed his hope that, in this instance, there would be no departure from the customary practice of the Senate, as he had no apprehension that the regular standing committee had the least desire to take any course which would interfere with any right which belonged to any State of the Union. Without looking particularly at the

construction of that committee, he felt a confident belief that there was no disposition in any of its members to have the public mails prostituted to the purpose of a set of fanatics. He did not wish to see the subject taken out of the regular course, as he considered that it would be giving to it a greater degree of importance than was necessary.

Mr. CALHOUN replied that the Senator from Alabama had mistaken his object, which was not to produce any unnecessary excitement, but to adopt such a course as would secure a committee which would calmly and dispassionately go into an examination of the whole subject; which would investigate the character of those publications, to ascertain if they were incendiary or not, and, if so, on that ground to put a check in their transmission through the country. He could not but express his astonishment at the objection which had been taken to his motion, for he knew that the Senator from Alabama felt that deep interest in the subject which pervaded the feelings of every man in the Southern section of the country. He believed that the Post Office Committee would be fully occupied with the regular business which would be brought before them, and it was this consideration, and no party feeling, which had induced this motion. Whatever was to be done, whatever feeling to be expressed, it was earnestly to be desired that it should come from a committee, a majority of whom were of those who were most deeply interested in the matter; and he hoped this sentiment would be responded to by a general acquiescence on the part of the Senate.

Mr. GRUNDY said: In reference to the objection that the members of the standing committee were from a different part of the country, he would reply that, such being the case, if the same sentiments favorable to the opinions of the Senator from South Carolina were entertained by the majority of them, their report would go forth to the public so much the stronger, as it would show that there existed a similarity of feeling in every part of the country, as to the power of the Government to act efficiently on this subject.

Mr. LEIGH said he should vote for a reference of the subject to a special committee, not from any distrust of the standing Committee on the Post Office, on account of the quarter of the Union from which the members composing the committee came, but because he did not think the subject belonged to the province of the standing committee. He understood that committee to be charged with matters relating to the general arrangements of the Post Office, and not to take cognizance of any thing with which was mingled up constitutional questions of such delicacy. He would take occasion to say now, that, from the conversations he had had with intelligent individuals from the non-slaveholding States, there existed no essential difference of opinion between them and himself. All of them were deeply impressed with the wickedness of these incendiary publications, and were

ready to go with him in a common effort to suppress them. There was therefore no fear to be entertained as to the course of the intelligent part of the North. But there was a fear lest this question should become involved in party considerations; and he should have no fear of this if the subject were sent to a special committee.

Mr. BUCHANAN expressed his gratification to hear the gentleman from Virginia express the result of his conversations with the gentleman of the North; and he was sure the honorable Senator spoke the sentiments of every intelligent man north of the slaveholding States, when he says he would suppress any incendiary publications which disturb the tranquillity of that section of the Union. I have yet to find that man of intelligence in the North who is of the opinion that the General Government has any right to interfere in the question of domestic slavery in the South; and all are disposed to go as far as they can constitutionally go, to suppress the transportation of incendiary publications through the mail. The reason why he was opposed to a special committee was, because by adopting the ordinary course, party spirit would be effectually put down. He had no fear of creating any party spirit on the subject in this body; but abroad the question might be asked, for what purpose was this referred to a special committee? Is the subject so far out of the reach of law that it cannot otherwise be taken hold of? Are there any two individuals who differ as to the propriety of doing all that can be done to prevent the circulation of incendiary publications in the South? The only question is the constitutional one, how far can we go? I undertake to say that we are all disposed to go as far as we can; and when we have raised a standing committee, conversant with the business of the Post Office and Post Roads, shall we take the subject out of their hands, and give it to a special committee? Abroad this may be considered a party movement. Mr. B. concluded with saying he should vote to send the subject to the Committee on the Post Office and Post Roads.

Mr. DAVIS viewed this as peculiarly a Southern interest, and was willing the gentlemen from that section of the country should present to the Senate their views; not that a naked question of constitutional power may not be as well understood in one portion of the country as another; but Southern gentlemen certainly best knew their own embarrassments in relation to this matter. When the subject comes here, gentlemen from other parts will no doubt do their duty fearlessly; but it seems not only courteous, but parliamentary, that those who are most vitally interested should first present us with their views. He would, therefore, cheerfully vote for a select committee.

Mr. BROWN intended to vote for a reference of the subject to the Committee on the Post Office and Post Roads. It had been urged that it was more proper to send it to a special com-

mittee, because they would have more time to examine the subject, and would carry more ability into the examination. He entertained a different opinion. The Committee on the Post Office had all the necessary experience; they were conversant with all the Post Office laws. Gentlemen in all the important committees were much engaged. No one was entirely free. The special committee would not be able to afford more time to the investigation than the standing committee. Another reason had been urged, that the committee ought to be constructed from the Southern section of the country. He could not subscribe to the soundness of this doctrine. Gentlemen deprecate giving a party complexion to the matter; what would be the effect of sending it to a special committee? It would be more than giving a party complexion to the matter; it would be giving to it a sectional aspect, which was the worst kind of political aspect. The proper course appeared, in his opinion, to be, to display a confidence in the North, in the full conviction that they would do right. If they were to exclude the Northern gentlemen, it would imply a distrust which he was not willing to show. The proper course would be to confide the matter to the Northern Senators, who, he was confident, were as much interested as any others in putting down these incendiary efforts of a set of fugitives from the Northern States, and this was the course he was disposed to pursue in this case.

The question was taken on the motion to refer the subject to a select committee, and decided in the affirmative: Ayes 23.

The committee, on motion of Mr. CALHOUN, was ordered to consist of five members, and was chosen as follows: Mr. CALHOUN, Mr. KING of Georgia, Mr. MANGUM, Mr. DAVIS, and Mr. LEX.

TUESDAY, December 22.

Michigan Senators.

On motion of Mr. BENTON, the Senate proceeded to consider his motion, laid on the table some days since, to extend the courtesy of the Senate to the Senators from Michigan, by assigning them chairs in the Senate.

Mr. BENTON stated that he now proposed to modify his motion, by substituting what he would now send to the Chair, which was copied verbatim from the resolution adopted by the Senate when Messrs. Blount and Cocke came here as Senators from Tennessee.

The modification was then read, as follows:

That Mr. LYON and Mr. NORVELL, who claim to be Senators of the United States, be received as spectators, and that chairs be provided for that purpose, (on the floor,) until the final decision of the Senate shall be given on the application to admit Michigan into the Union.

Mr. EWING moved to strike out the words "on the floor;" which was carried in the affirmative.

JANUARY, 1836.]

Abolition of Slavery.

[SENATE.]

WEDNESDAY, December 23.

Ballot for Chaplain.

The Senate proceeded to ballot for a chaplain. There were three ballotings: Mr. Higbee and Mr. Harrison were the principal candidates. On the first ballot each of these gentlemen received 12 votes; on the second ballot Mr. Harrison had 16, and Mr. Higbee 15 votes; and on the third ballot Mr. Higbee received 23 out of 38 votes, and Mr. Harrison 14.

The Rev. Mr. Higbee was therefore elected chaplain of the Senate.

THURSDAY, January 7.

*Slavery in the District of Columbia.**

Mr. MORRIS presented two petitions from Ohio, praying for the abolition of slavery in the District of Columbia.

Mr. CALHOUN demanded that the petitions should be read.

The Secretary having read the petitions,

Mr. CALHOUN demanded the question on receiving them; which was a preliminary question, which any member had a right to make. He demanded it on behalf of the State which he represented; he demanded it, because the petitions were in themselves a foul slander on nearly one-half of the States of the Union; he demanded it, because the question involved was one over which neither this nor the House had any power whatever; and that a stop might be put to that agitation which prevailed in so large a section of the country, and which, unless checked, would endanger the existence of the Union.

Mr. MORRIS. In presenting these petitions he would say, on the part of the State of Ohio, that she went to the entire extent of the opinions of the Senator from South Carolina on one point. We deny, said he, the power of Congress to legislate concerning local institutions, or to meddle in any way with slavery in any of the States; but we have always entertained the opinion that Congress has primary and exclusive legislation over this District; under this impression, these petitioners have come to the Senate to present their petitions. The doctrine that Congress have no power over the subject of slavery in this District is to me a new one; and it is one that will not meet with credence in the State in which I reside. I believe these petitioners have the right to present themselves here, placing their feet on the constitution of their country, when they come to ask of Congress to exercise those powers which they can legitimately exercise. I believe they have a right to be heard in their petitions, and that Congress may afterwards dispose of these petitions as in their wisdom they may think proper.

Under these impressions, these petitioners come to be heard, and they have a right to be heard.

Mr. PRESTON. I must confess that I am somewhat surprised at the introduction of petitions of this character, after the occurrences of the last summer, which must naturally have made the Southern people extremely sensitive on this subject. I am aware that similar petitions have been presented, and referred to the Committee for the District of Columbia; and, as was stated by the chairman of that committee two years ago, without the chance of provoking any action of that committee. To use his language, "the committee-room was to them the lion's den, from which there were no footprints to mark their return."

But, sir, this course is not the proper one to pursue now. There is in it neither justice nor expediency. We have a right to demand that some other remedy should be applied, and we do demand it. When I consider the extraordinary excitement which has been produced throughout the country; the combustible material, in the shape of incendiary pamphlets, which has been accumulated and spread abroad; the vast multitudes which have assembled; the apostles who have addressed them; their acts and their menaces; though I am but little disposed to allude to them, yet a regard to the honor and interests of the South calls upon me to do so, and that, too, in language which she has a right to expect and demand.

Sir, the Southern mind has been already filled with agitation and alarm. Their property, their domestic relations, their altars, their lives, are in danger; and, as if this were not sufficient, we have now these agitators and incendiaries calling upon Congress to act upon the slaveholding States, either directly or indirectly, through the medium of this District. And are we, sir, to sit still and see it? Are we to behold our rights and privileges trampled upon? All upon which the permanence and security of our prosperity depends assailed by these blood-thirsty fanatics, and Government called upon to participate in the wanton and malicious movement, without lifting a hand, without raising a voice, without acting as a due regard to the honor, dignity, and happiness of our constituents calls upon us to act?

Mr. BUCHANAN said that, for two or three weeks past, there had been in his possession a memorial from the Caln Quarterly Meeting of the religious Society of Friends, in the State of Pennsylvania, requesting Congress to abolish slavery and the slave trade within the District of Columbia. This memorial was not a printed form; its language was not that in established use for such documents. It did not proceed from those desperate fanatics who have been endeavoring to disturb the security and peace of society in the Southern States, by the distribution of incendiary pamphlets and papers. Far different is the truth. It emanates from a society of Christians, whose object had always been to promote peace and good-will among

* At this session the slavery discussion became installed in Congress, and has too unhappily kept its place ever since.

men, and who have been the efficient and persevering friends of humanity in every clime. To their untiring efforts, more than to those of any other denomination of Christians, we owe the progress which has been made in abolishing the African slave trade throughout the world. This memorial was their testimony against the existence of slavery. This testimony they had borne for more than a century. Of the purity of their motives there can be no question.

As I entirely dissent from the opinion which they express, that we ought to abolish slavery in the District of Columbia, I feel it to be due to them, to myself, and to the Senate, respectfully, but firmly, to state the reasons why I cannot advocate their views or acquiesce in their conclusions.

If any one principle of constitutional law can, at this day, be considered as settled, it is that Congress have no right, no power, over the question of slavery within those States where it exists. The property of the master in his slave existed in full force before the federal constitution was adopted. It was a subject which then belonged, as it still belongs, to the exclusive jurisdiction of the several States. These States, by the adoption of the constitution, never yielded to the General Government any right to interfere with the question. It remains where it was previous to the establishment of our confederacy.

The constitution has, in the clearest terms, recognized the rights of property in slaves. It prohibits any State into which a slave may have fled, from passing any law to discharge him from slavery, and declares that he shall be delivered up by the authorities of such State to his master. Nay, more; it makes the existence of slavery the foundation of political power, by giving to those States within which it exists, Representatives in Congress, not only in proportion to the whole number of free persons, but also in proportion to three-fifths of the number of slaves.

An occasion very fortunately arose in the first Congress to settle this question forever. The society for the abolition of slavery in Pennsylvania brought it before that Congress by a memorial, which was presented on the 11th day of February, 1790. After the subject had been discussed for several days, and after solemn deliberation, the House of Representatives, in Committee of the Whole, on the 23d day of March, 1790, resolved "That Congress have no authority to interfere in the emancipation of slaves, or in the treatment of them, within any of the States; it remaining with the several States alone to provide any regulations therein which humanity and true policy may require."

I have thought it would be proper to present this decision, which was made almost half a century ago, distinctly to the view of the American people. The language of the resolution is clear, precise, and definite. It leaves the question where the constitution left it, and where, so far as I am concerned, it ever shall

remain. The Constitution of the United States never would have been called into existence; instead of the innumerable blessings which have flowed from our happy Union, we should have had anarchy, jealousy, and civil war, among the sister republics of which our confederacy is composed, had not the free States abandoned all control over this question. For one, whatever may be my opinions upon the abstract question of slavery, (and I am free to confess they are those of the people of Pennsylvania,) I shall never attempt to violate this fundamental compact. The Union will be dissolved, and incalculable evils will rise from its ashes, the moment any such attempt is seriously made by the free States in Congress.

What, then, are the circumstances under which these memorials are now presented? A number of fanatics, led on by foreign incendiaries, have been scattering "arrows, firebrands, and death," throughout the Southern States. The natural tendency of their publications is to produce dissatisfaction and revolt among the slaves, and to incite their wild passions to vengeance. All history, as well as the present condition of the slaves, proves that there can be no danger of the final result of a servile war. But, in the mean time, what dreadful scenes may be enacted, before such an insurrection, which would spare neither age nor sex, could be suppressed! What agony of mind must be suffered, especially by the gentler sex, in consequence of these publications! Many a mother clasps her infant to her bosom when she retires to rest, under dreadful apprehensions that she may be aroused from her slumbers by the savage yells of the slaves by whom she is surrounded. These are the works of the abolitionists. That their motives may be honest I do not doubt; but their zeal is without knowledge. The history of the human race presents numerous examples of ignorant enthusiasts, the purity of whose intentions cannot be doubted, who have spread devastation and bloodshed over the face of the earth.

These fanatics, instead of benefiting the slaves who are the objects of their regard, have inflicted serious injuries upon them. Self-preservation is the first law of nature. The masters, for the sake of their wives and children, for the sake of all that is near and dear to them on earth, must tighten the reins of authority over their slaves. They must thus counteract the efforts of the abolitionists. The slaves are denied many indulgences which their masters would otherwise cheerfully grant. They must be kept in such a state of bondage as effectually to prevent their rising. These are the injurious effects produced by the abolitionists upon the slave himself. Whilst, on the one hand, they render his condition miserable, by presenting to his mind vague notions of freedom, never to be realized, on the other, they make it doubly miserable, by compelling the master to be severe, in order to prevent any attempts at insurrection. They thus render it impossible for the

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master to treat his slave according to the dictates of his heart and his feelings.

Besides, do not the abolitionists perceive that the spirit which is thus roused must protract to an indefinite period the emancipation of the slave? The necessary effect of their efforts is to render desperate those to whom the power of emancipation exclusively belongs. I believe most conscientiously, in whatever light this subject can be viewed, that the best interests of the slave require that the question should be left, where the constitution has left it, to the slaveholding States themselves, without foreign interference.

This being a true statement of the case, as applied to the States where slavery exists, what is now asked by these memorialists? That in this District of ten miles square—a District carved out of two slaveholding States, and surrounded by them on all sides—slavery shall be abolished. What would be the effects of granting their request? You would thus erect a citadel in the very heart of these States, upon a territory which they have ceded to you for a far different purpose, from which abolitionists and incendiaries could securely attack the peace and safety of their citizens. You establish a spot within the slaveholding States which would be a city of refuge for runaway slaves. You create by law a central point from which trains of gunpowder may be securely laid, extending into the surrounding States, which may at any moment produce a fearful and destructive explosion. By passing such a law, you introduce the enemy into the very bosom of these two States, and afford him every opportunity to produce a servile insurrection. Is there any reasonable man who can for one moment suppose, that Virginia and Maryland would have ceded the District of Columbia to the United States, if they had entertained the slightest idea that Congress would ever use it for such purpose? They ceded it for your use, for your convenience, and not for their own destruction. When slavery ceases to exist under the laws of Virginia and Maryland, then, and not till then, ought it to be abolished in the District of Columbia.

Mr. B. said that, notwithstanding these were his opinions, he could not vote for the motion of the Senator from South Carolina, (Mr. CALHOUN,) not to receive these memorials. He would not at present proceed to state his reasons, still hoping the Senate could yet agree upon some course which would prove satisfactory to all. With this view, he moved that the whole subject be postponed until Monday next.

Mr. BENTON rose to express his concurrence in the suggestion of the Senator from Pennsylvania, (Mr. BUCHANAN,) that the consideration of this subject be postponed. It had come up suddenly and unexpectedly to-day, and the postponement would give an opportunity for Senators to reflect, and to confer together, and to conclude what was best to be done where all were united in wishing the same end,

namely, to allay, and not to produce, excitement. He had risen for this purpose; but, being on his feet, he would say a few words on the general subject, which the presentation of these petitions had so suddenly and unexpectedly brought up. With respect to the petitioners, and those with whom they acted, he had no doubt but that many of them were good people, aiming at benevolent objects, and endeavoring to ameliorate the condition of one part of the human race, without inflicting calamities on another part; but they were mistaken in their mode of proceeding, and so far from accomplishing any part of their object, the whole effect of their interposition was to aggravate the condition of those in whose behalf they were interfering. But there was another part, and he meant to speak of the abolitionists generally, as the body containing the part of which he spoke; there was another part whom he could not qualify as good people, seeking benevolent ends by mistaken means, but as incendiaries and agitators, with diabolical objects in view, to be accomplished by wicked and deplorable means. He did not go into the proofs now to establish the correctness of his opinion of this latter class; but he presumed it would be admitted that every attempt to work upon the passions of the slaves, and to excite them to murder their owners, was a wicked and diabolical attempt, and the work of a midnight incendiary. Pictures of slave degradation and misery, and of the white man's luxury and cruelty, were attempts of this kind; for they were appeals to the vengeance of slaves, and not to the intelligence or reason of those who legislated for them. He (Mr. B.) had had many pictures of this kind, as well as many diabolical publications, sent to him on this subject, during the last summer, the whole of which he had cast into the fire, and should not have thought of referring to the circumstance at this time, as displaying the character of the incendiary part of the abolitionists, had he not within these few days past, and while abolition petitions were pouring into the other end of the Capitol, received one of these pictures, the design of which could be nothing but mischief of the blackest dye. It was a print from an engraving, (and Mr. B. exhibited it, and handed it to Senators near him,) representing a large and spreading tree of liberty, beneath whose ample shade a slave owner was at one time luxuriously reposing, with slaves fanning him; at another carried forth in a palanquin, to view the half-naked laborers in the cotton-field, whom drivers, with whips, were scourging to the task. The print was evidently from the abolition mint, and came to him by some other conveyance than that of the mail, for there was no post mark, or mark of any kind, to identify its origin and to indicate its line of march. For what purpose could such a picture be intended, unless to inflame the passions of slaves? And why engrave it, except to multiply copies for extensive distribution? But it was not pictures alone

that operated upon the passions of the slaves, but speeches, publications, petitions presented in Congress, and the whole machinery of abolition societies. None of these things went to the understandings of the slaves, but to their passions, all imperfectly understood, and inspiring vague hopes, and stimulating abortive and fatal insurrections. Societies, especially, were the foundation of the greatest mischiefs. Whatever might be their objects, the slaves never did, and never can, understand them but in one way: as allies organized for action, and ready to march to their aid on the first signal of insurrection!

Mr. B. went on to say that these societies had already perpetrated more mischief than the joint remainder of all their lives spent in prayers of contrition, and in works of retribution, could ever atone for. They had thrown the state of the emancipation question fifty years back. They had subjected every traveller, and every emigrant, from the non-slaveholding States, to be received with coldness, and viewed with suspicion and jealousy, in the slaveholding States. They had occasioned many slaves to lose their lives. They had caused the deportation of many ten thousands from the grain-growing to the planting States. They had caused the privileges of all slaves to be curtailed, and their bonds to be more tightly drawn. Nor was the mischief of their conduct confined to slaves; it reached the free colored people, and opened a sudden gulf of misery to that population. In all the slave States, this population has paid the forfeit of their intermediate position, and suffered proscription as the instruments, real or suspected, of the abolition societies. In all these States, their exodus had either been enforced or was impending. In Missouri there was a clause in the constitution, which prohibited their emigration to the State; but that clause had remained a dead letter in the book until the agitation produced among the slaves by the distant rumbling of the abolition thunder, led to the knowledge in some instances, and to the belief in others, that these people were the antennae of the abolitionists, and their medium for communicating with the slaves, and for exciting them to desertion first, and to insurrection eventually. Then ensued a painful scene. The people met, resolved, and prescribed thirty days for the exodus of the obnoxious caste. Under that decree a general emigration had to take place at the commencement of winter. Many worthy and industrious people had to quit their business and their homes, and to go forth under circumstances which rendered them objects of suspicion wherever they went, and sealed the door against the acquisition of new friends, while depriving them of the protection of old ones. He (Mr. B.) had witnessed many instances of this kind, and had given certificates to several, to show that they were banished, not for their offences, but for their misfortunes; for the misfortune of being allied to the race which

the abolition societies had made the object of their gratuitous philanthropy.

Having said thus much of the abolition societies in the non-slaveholding States, Mr. B. turned, with pride and exultation, to a different theme—the conduct of the great body of the people in all these States. Before he saw that conduct, and while the black question, like a portentous cloud, was gathering and darkening on the North-eastern horizon, he trembled, not for the South, but for the Union. He feared that he saw the fatal work of dissolution about to begin, and the bonds of this glorious confederacy about to snap; but the conduct of the great body of the people in all the non-slaveholding States quickly dispelled that fear, and in its place planted deep the strongest assurance of the harmony and indivisibility of the Union which he had felt for many years. Their conduct was above all praise, above all thanks, above all gratitude. They had chased off the foreign emissaries, silenced the gabbling tongues of female dupes, and dispersed the assemblages, whether fanatical, visionary, or incendiary, of all that congregated to preach against evils which afflicted others, not them, and to propose remedies to aggravate the disease which they pretended to cure. They had acted with a noble spirit. They had exerted a vigor beyond all law. They had obeyed the enactments, not of the statute book, but of the heart; and while that spirit was in the heart, he cared nothing for laws written in a book. He would rely upon that spirit to complete the good work it has begun; to dry up these societies; to separate the mistaken philanthropist from the reckless fanatic and the wicked incendiary, and put an end to publications and petitions which, whatever may be their design, can have no other effect than to impede the object which they invoke, and to aggravate the evil which they deplore.

Mr. BROWN, of North Carolina, felt himself constrained, by a sense of duty to the State from which he came, deeply and vitally interested as she was, in every thing connected with the agitating question which had unexpectedly been brought into discussion that morning, to present, in a few words, his views as to the proper direction which should be given to that and all other petitions relating to slavery in the District of Columbia. He felt himself more especially called on to do so from the aspect which the question had assumed, in consequence of the motion of the gentleman from South Carolina, (Mr. CALHOUN,) to refuse to receive the petition. He had believed from the first time he had reflected on this subject, and subsequent events had but strengthened that conviction, that the most proper disposition of all such petitions was to lay them on the table without printing. This course, while it indicated to the fanatics that Congress will yield no countenance to their designs, at the same time marks them with decided reprobation by a refusal to print. But, in his estimation, another reason gave to the

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motion to lay them on the table a decided preference over any other proceedings by which they should be met. The peculiar merit of this motion, as applicable to this question, is, that it precludes all debate, and would thus prevent the agitation of a subject in Congress which all should deprecate as fraught with mischief to every portion of this happy and flourishing confederacy.

Mr. B. said that honorable gentlemen who advocated this motion had disclaimed all intention to produce agitation on this question. He did not pretend to question the sincerity of their declarations, and, while willing to do every justice to their motives, he must be allowed to say that no method could be devised better calculated, in his judgment, to produce such a result.

He (Mr. B.) most sincerely believed that the best interests of the Southern States would be most consulted, by pursuing such a course here as would harmonize the feelings of every section, and avoid opening for discussion so dangerous and delicate a question. He believed all the Senators who were present a few days since, when a petition of similar character had been presented by an honorable Senator, had, by their votes to lay it on the table, sanctioned the course which he now suggested.

[Mr. CALHOUN, in explanation, said that himself and his colleague were absent from the Senate on the occasion alluded to.]

Mr. B. resumed his remarks, and said that he had made no reference to the votes of any particular member of that body, but what he had said was, that a similar petition had been laid on the table without objection from any one, and consequently by a unanimous vote of the Senators present. Here, then, was a most emphatic declaration, by gentlemen representing the Northern States as well as those from other parts of the Union, by this vote, that they will entertain no attempt at legislation on the question of slavery in the District of Columbia. Why, then, asked Mr. B., should we now adopt a mode of proceeding calculated to disturb the harmonious action of the Senate, which had been produced by the former vote? Why (he would respectfully ask of honorable gentlemen who press the motion to refuse to receive the petition) and for what beneficial purpose do they press it? By persisting in such a course it would, beyond all doubt, open a wide range of discussion; it would not fail to call forth a great diversity of opinion in relation to the extent of the right to petition under the constitution. Nor would it be confined to that question alone, judging from an expression which had fallen from an honorable gentleman from Virginia (Mr. TYLER) in the course of this debate. That gentleman had declared his preference for a direct negative vote by the Senate, as to the constitutional power of Congress to emancipate slaves in the District of Columbia. He, for one, protested, politically speaking, against opening this Pandora's box in the halls of Congress.

For all beneficial and practical purposes, an overwhelming majority of the members representing the Northern States were with the South, in opposition to any interference with slavery in the District of Columbia. If there was half a dozen in both branches of Congress who did not stand in entire opposition to any interference with slavery in this District, or elsewhere, he had yet to learn it. Was it wise, was it prudent, was it magnanimous, in gentlemen representing the Southern States, to urge this matter still further, and say to our Northern friends in Congress, "Gentlemen, we all agree in the general conclusion, that Congress should not interfere in this question, but we wish to know your reasons for arriving at this conclusion; we wish you to declare, by your votes, whether you arrive at this result because you think it unconstitutional, or not?" Mr. B. said that he would yield to none in zeal in sustaining and supporting, to the extent of his ability, what he believed to be the true interests of the South; but he should take leave to say that, when the almost united will of both branches of Congress, for all practical purposes, was with us, against all interference on this subject, he should not hazard the peace and quiet of the country by going on a Quixotic expedition in pursuit of abstract constitutional questions. He would not quarrel with gentlemen so long as they continued in the determination not to interfere in this question, even if they did not come to that determination by precisely the same mode of reasoning with himself. Mr. B. said it appeared to him that the true course of those representing the South here was to occupy a defensive position, so long as others were disposed not to discuss it, and Congress refused to exert any legislative authority over the subject. When that attempt was made, if it ever should be, he should say the time for discussion had passed, and a period had arrived which called for other and more vigorous means of self-defence.

Another, and not the least weighty, reason had operated on his mind in bringing it to the conclusion that the motion to reject the petition was injudicious. If successful, nothing would perhaps be more agreeable to the fanatics (he thought they should be more properly called fiends in human shape, who would endeavor to lay waste the happiness and liberties of this country) than the intelligence that they had received this mark of notice, and to them, of consequence, from the Congress of the United States. Mr. B. said, in his judgment, that man was but little skilled in the passions of the human breast, who did not know that there was no error, however great, nor any heresy, however abominable, either in religion or politics, which might not be aided by the cry of persecution, however unfounded it might be in fact. Fanaticism would seize on it, to enlist the sympathies of the weak and ignorant in their behalf. Wicked and fanatical men had done this, in all ages, and he doubted not but the malignant

spirits who had been laboring in this detestable vocation, would cunningly seek to avail themselves of any means to further their diabolical designs. Another, and, with him, equally decisive reason against any course calculated to throw the subject open to discussion here, was the almost universal manifestation at the North, during the past summer and fall, of that fraternal and patriotic feeling towards the South, which he trusted would continue to exert its happy effect in preserving, unimpaired, the bonds of the union of these States. He rejoiced at this strong development of feeling, not only because it had contributed to repress the movements of dangerous enemies to the peace and happiness of our country in that quarter, but because it had dispelled the insidious misrepresentations in regard to the sentiments of the great body of the Northern people, which certain presses had, as he believed, both in the North and South, most industriously used, for the most sinister purposes. What were the facts, as to the public opinion of the North, on this subject? But a short time had passed by since most of the active leaders of this fanatical band were contemptible fugitives, in different parts of the North, where they had attempted to exhibit, from the insulted and generous indignation of a patriotic people, who wished to preserve the peace of the country and their obligations to us as members of the same confederacy. That an active and daring band of these incendiaries existed none could doubt, but that they formed a very small portion of the great mass of the Northern people, we not only had the assurances of public meetings, which had assembled almost throughout that quarter, attended by the most respectable and distinguished citizens, but we had here, but a short time since, the declarations of many of the Senators from the non-slaveholding States, that this class of individuals was but small, and that they were countenanced by no respectable portion of those States. He had been assured, since his arrival here, by gentlemen representing the Northern States, that an abolition discourse could not be delivered among those whom they represented, without endangering the safety of the person attempting it. In addition to this, he would say, that the action of the Federal Government, through the Post Office Department, was protective of the rights of the South against incendiary publications. If postmasters to the North and South did their duty, as sanctioned by the head of that Department, these enemies of our Government and of the human race were cut off from circulating, through that medium, their firebrands of mischief. Under these circumstances, was this a time for us to throw open the door to discussion on this subject, and thus assist in exacerbating feelings which had already been enough excited? He thought it only necessary to contrast the proceedings of the Senate on the petition to which he had before alluded, and which had been laid on the table by the unanimous vote of the Senators

present, with the proceedings of to-day, to show the decided wisdom of taking the same course in relation to the present and all similar petitions. The petition which had been quietly inurned by the motion to lay on the table, had scarcely been thought of or heard of since, consigned as it had been to the insignificance and contempt of mortifying neglect and want of notice. What was the fact, in relation to the proposed mode of proceeding, as to the present petition? The Senate had already found itself engaged in a debate, which no one could foresee the direction of, thus producing agitation, and dignifying with undeserved, and, no doubt, gratifying notoriety to the fanatics, a miserable effusion, which, but for this proceeding, would have fallen into obscurity and contempt.

Mr. PIERCE said: I was not in my seat when a petition similar to this was a few days since laid upon the table. Had I been, it would not have gone there *sub silentio*. Sir, I must express my astonishment at the remarks of the gentleman from North Carolina. Has this discussion been brought on by the Southern States? No, sir. Is discussion of any kind unnecessary? Is there nothing peculiar in the aspect of affairs; no extraordinary efforts making at the North; nothing unusual in public sentiment and feeling to authorize this discussion? Sir, why has not North Carolina taken up this matter and in this way before?

Every governor of every slaveholding State has called the attention of its Legislature to this subject; the whole public mind has been convulsed; all men of all parties are shaken and excited; and lo! the Senator from North Carolina exhorts us to be quiet. An enemy, savage, remorseless, and indignant, is thundering at our gates, and the gentleman tells us to fold our arms. Our hearths and altars are running with blood and in flames; be quiet, says the gentleman. The storm is bursting upon us that is to sweep away the bulwarks of our freedom and union, and fill the land with convulsion and anarchy; but sit still, says the honorable Senator. He sees no danger, no cause of alarm; no, not the slightest. Petitioners, the mad instruments for accomplishing this unhallowed work, are thronging here by thousands; incendiary pamphlets are circulated; incendiary meetings held; insult, threats, and denunciations, are heaped upon us; but we are not to lift a voice or raise a finger. Oh! no, sir; keep quiet, all around is a perfect calm. Sir, we whose lives and property are at stake, we who have every motive to move, are we alone to be quiet? It may be that there is some object in this. It may be that wicked and designing men have mixed up this matter with others foreign to it. I trust not, sir; I trust that all parties will act in harmony with each other on a point which so immediately affects the public weal. The South, sir, has not produced this excitement. She has not sought this discussion. It has been accomplished by other men and other means. By these selfish and morose fa-

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natives—these wild disturbers, whose schemes will involve this country and the world in confusion and calamity. This is the child of agitation—of that agitation which drives our very women from the decencies and duties of their sex.

The question of postponement till Monday was then determined in the affirmative.

MONDAY, January 11.

The honorable A. CUTHBERT, from Georgia, appeared and took his seat.

Calm Quarterly Meeting Memorial.

After the reception of sundry executive communications and memorials,

Mr. BUCHANAN said he was now about to present the memorial of the Calm quarterly meeting of the religious society of Friends in Pennsylvania, requesting Congress to abolish slavery and the slave trade in the District of Columbia. On this subject he had expressed his opinions to the Senate on Thursday last, and he had no disposition to repeat them at present. He would say, however, that, on a review of these questions, he was perfectly satisfied with them. All he should now say was, that the memorial which he was about to present was perfectly respectful in its language. Indeed, it could not possibly be otherwise, considering the respectable source from which it emanated.

It would become his duty to make some motion in regard to this memorial. On Thursday last he had suggested that, in his judgment, the best course to pursue was to refer these memorials to a select committee, or to the Committee for the District of Columbia. He still thought so; but he now found that insurmountable obstacles presented themselves to such a reference.

In presenting this memorial, and in exerting himself, so far as in him lay, to secure for it that respectable reception by the Senate which it deserved, he should do his duty to the memorialists. After it should obtain this reception, he should have a duty to perform to himself and to his country. He was clearly of opinion, for the reasons he had stated on Thursday last, that Congress ought not, at this time, to abolish slavery in the District of Columbia, and that it was our duty promptly to place this exciting question at rest. He should therefore move that the memorial be read, and that the prayer of the memorialists be rejected.

Mr. PRESTON said that the question was already raised by his colleague, and he trusted that the Senator from Pennsylvania would not urge any action on this petition until some disposition was made of the one presented on Thursday by the gentleman from Ohio.

The memorial, &c., was ordered to lie on the table.

MONDAY, January 18.

The United States and France—Message from the President—Diplomatic Intercourse Suspended—Hostile Demonstrations.

The following Message was received from the President of the United States:

To the Senate and House of Representatives:

Gentlemen: In my Message at the opening of your session I informed you that our chargé d'affaires at Paris had been instructed to ask for the final determination of the French Government, in relation to the payment of the indemnification secured by the treaty of the 4th of July, 1831, and that when advices of the result should be received it would be made the subject of a special communication.

In execution of this design, I now transmit to you the papers numbered from one to thirteen, inclusive, containing, among other things, the correspondence on this subject between our chargé d'affaires and the French Minister of Foreign Affairs, from which will be seen that France requires, as a condition precedent to the execution of a treaty unconditionally ratified, and to the payment of a debt acknowledged by all the branches of her Government to be due, that certain explanations shall be made, of which she dictates the terms. These terms are such as that Government has already been officially informed cannot be complied with; and, if persisted in, they must be considered as a deliberate refusal on the part of France to fulfil engagements binding by the laws of nations, and held sacred by the whole civilized world. The nature of the act which France requires from this Government is clearly set forth in the letter of the French minister, marked No. 4. "We will pay the money," says he, "when the Government of the United States is ready, on its part, to declare to us, by addressing its claim to us officially, in writing, that it regrets the misunderstanding which has arisen between the two countries; that this misunderstanding is founded on a mistake; that it never entered into its intention to call in question the good faith of the French Government, nor to take a menacing attitude towards France;" and he adds, "if the Government of the United States does not give this assurance, we shall be obliged to think that this misunderstanding is not the result of an error." In the letter marked No. 6, the French minister also remarks, "that the Government of the United States knows that upon itself depends henceforward the execution of the treaty of July 4, 1831."

Obliged, by the precise language thus used by the French minister, to view it as a peremptory refusal to execute the treaty, except on terms incompatible with the honor and independence of the United States, and persuaded that, on considering the correspondence now submitted to you, you can regard it in no other light, it becomes my duty to call your attention to such measures as the exigency of the case demands, if the claim of interfering in the communications between the different branches of our Government shall be persisted in. This pretension is rendered the more unreasonable by the fact that the substance of the required explanation has been repeatedly and voluntarily given, before it was insisted on as a condition—a condition the more humiliating, because it is demanded as the equivalent of a pecuniary consideration. Does France desire only a declaration that we had no intention to obtain

our rights by an address to her fears rather than to her justice? She has already had it, frankly and explicitly given by our minister accredited to her Government, his act ratified by me, and my confirmation of it officially communicated by him, in his letter to the French Minister of Foreign Affairs of the 25th of April, 1835, and repeated by my published approval of that letter after the passage of the bill of indemnification. Does France want a degrading, servile repetition of this act, in terms which she shall dictate, and which will involve an acknowledgment of her assumed right to interfere in our domestic councils? She will never obtain it. The spirit of the American people, the dignity of the Legislature, and the firm resolve of their executive Government, forbid it.

As the answer of the French minister to our chargé d'affaires at Paris contains an allusion to a letter addressed by him to the representative of France at this place, it now becomes proper to lay before you the correspondence had between that functionary and the Secretary of State relative to that letter, and to accompany the same with such explanations as will enable you to understand the course of the Executive in regard to it. Recurring to the historical statement made at the commencement of your session, of the origin and progress of our difficulties with France, it will be recollected that, on the return of our minister to the United States, I caused my official approval of the explanations he had given to the French Minister of Foreign Affairs, to be made public. As the French Government had noticed the message without its being officially communicated, it was not doubted that, if they were disposed to pay the money due to us, they would notice any public explanation of the Government of the United States in the same way. But contrary to these well-founded expectations, the French ministry did not take this fair opportunity to relieve themselves from their unfortunate position, and to do justice to the United States.

Whilst, however, the Government of the United States was awaiting the movements of the French Government, in perfect confidence that the difficulty was at an end, the Secretary of State received a call from the French chargé d'affaires in Washington, who desired to read to him a letter he had received from the French Minister of Foreign Affairs. He was asked whether he was instructed or directed to make any official communication, and replied that he was only authorized to read the letter, and furnish a copy if requested. The substance of its contents, it is presumed, may be gathered from Nos. 4 and 6, herewith transmitted. It was an attempt to make known to the Government of the United States, privately, in what manner it could make explanations, apparently voluntary, but really dictated by France, acceptable to her, and thus obtain payment of the twenty-five millions of francs. No exception was taken to this mode of communication, which is often used to prepare the way for official intercourse, but the suggestions made in it were, in their substance, wholly inadmissible. Not being in the shape of an official communication to this Government, it did not admit of reply or official notice, nor could it safely be made the basis of any action by the Executive or the Legislature; and the Secretary of State did not think proper to ask a copy, because he could have no use for it. Copies of papers, marked Nos. 9, 10, and 11, show an attempt on the part of the

French chargé d'affaires, many weeks afterwards, to place a copy of this paper among the archives of this Government, which, for obvious reasons, was not allowed to be done; but the assurance before given was repeated, that any official communication which he might be authorized to make in the accustomed form would receive prompt and just consideration. The indiscretion of this attempt was made more manifest by the subsequent avowal of the French chargé d'affaires, that the object was to bring the letter before Congress and the American people. If foreign agents, on a subject of disagreement between their Government and this, wish to prefer an appeal to the American people, they will hereafter, it is hoped, better appreciate their own rights, and the respect due to others, than to attempt to use the Executive as the passive organ of their communications. It is due to the character of our institutions that the diplomatic intercourse of this Government should be conducted with the utmost directness and simplicity, and that in all cases of importance, the communications received or made by the Executive should assume the accustomed official form. It is only by insisting on this form that foreign powers can be held to full responsibility; that their communications can be officially replied to; or that the advice or interference of the Legislature can, with propriety, be invited by the President. This course is also best calculated, on the one hand, to shield that officer from unjust suspicions; and, on the other, to subject this portion of his acts to public scrutiny, and, if occasion shall require it, to constitutional animadversion. It was the more necessary to adhere to these principles in the instance in question, inasmuch as, in addition to other important interests, it very intimately concerned the national honor; a matter, in my judgment, much too sacred to be made the subject of private and unofficial negotiation.

It will be perceived that this letter of the French Minister of Foreign Affairs was read to the Secretary of State on the 11th of September last. This was the first authentic indication of the specific views of the French Government received by the Government of the United States after the passage of the bill of indemnification. Inasmuch as the letter had been written before the official notice of my approval of Mr. Livingston's last explanation and remonstrance could have reached Paris, just ground of hope was left, as has been before stated, that the French Government, on receiving that information in the same manner the alleged offending message had reached them, would desist from their extraordinary demand, and pay the money at once. To give them an opportunity to do so, and, at all events, to elicit their final determination, and the ground they intended to occupy, the instructions were given to our chargé d'affaires which were adverted to at the commencement of the present session of Congress. The result, as you have seen, is a demand of an official written expression of regrets, and a direct explanation addressed to France, with a distinct intimation that this is a *sine qua non*.

Mr. Barton having, in pursuance of his instructions, returned to the United States, and the chargé d'affaires of France having been recalled, all diplomatic intercourse between the two countries is suspended—a state of things originating in an unreasonable susceptibility on the part of the French Government, and rendered necessary on our part by their refusal to perform engagements contained in a treaty,

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from the faithful performance of which by us they are to this day enjoying many important commercial advantages.

It is time that this unequal position of affairs should cease, and that legislative action should be brought to sustain executive exertion in such measures as the case requires. While France persists in her refusal to comply with the terms of a treaty, the object of which was, by removing all causes of mutual complaint, to renew ancient feelings of friendship, and to unite the two nations in the bonds of amity, and of a mutually beneficial commerce, she cannot justly complain if we adopt such peaceful remedies as the law of nations and the circumstances of the case may authorize and demand. Of the nature of these remedies I have heretofore had occasion to speak; and, in reference to a particular contingency, to express my conviction that reprisals would be best adapted to the emergency then contemplated. Since that period, France, by all the departments of her Government, has acknowledged the validity of our claims and the obligations of the treaty, and has appropriated the moneys which are necessary to its execution; and though payment is withheld on grounds vitally important to our existence as an independent nation, it is not to be believed that she can have determined permanently to retain a position so utterly indefensible. In the altered state of the questions in controversy, and under all existing circumstances, it appears to me that, until such a determination shall have become evident, it will be proper and sufficient to retaliate her present refusal to comply with her engagements by prohibiting the introduction of French products and the entry of French vessels into our ports. Between this and the interdiction of all commercial intercourse, or other remedies, you, as the representatives of the people, must determine. I recommend the former, in the present posture of our affairs, as being the least injurious to our commerce, and as attended with the least difficulty of returning to the usual state of friendly intercourse, if the Government of France shall render us the justice that is due; and also as a proper preliminary step to stronger measures, should their adoption be rendered necessary by subsequent events.

The return of our chargé d'affaires is attended with public notices of naval preparations on the part of France, destined for our seas. Of the cause and intent of these armaments I have no authentic information, nor any other means of judging, except such as are common to ourselves and to the public; but whatever may be their object, we are not at liberty to regard them as unconnected with the measures which hostile movements on the part of France may compel us to pursue. They at least deserve to be met by adequate preparations on our part, and I therefore strongly urge large and speedy appropriations for the increase of the navy, and the completion of our coast defences.

If this array of military force be really designed to affect the action of the Government and people of the United States on the questions now pending between the two nations, then indeed would it be dishonorable to pause a moment on the alternative which such a state of things would present to us. Come what may, the explanation which France demands can never be accorded; and no armament, however powerful and imposing, at a distance, or on our coast, will, I trust, deter us from discharging the

high duties which we owe to our constituents, to our national character, and to the world.

The House of Representatives, at the close of the last session of Congress, unanimously resolved that the treaty of the 4th of July, 1831, should be maintained, and its execution insisted on by the United States. It is due to the welfare of the human race, not less than to our own interests and honor, that this resolution should, at all hazards, be adhered to. If, after so signal an example as that given by the American people during their long-protracted difficulties with France, of forbearance under accumulated wrongs, and of generous confidence in her ultimate return to justice, she shall now be permitted to withhold from us the tardy and imperfect indemnification which, after years of remonstrance and discussion, had at length been solemnly agreed on by the treaty of 1831, and to set at nought the obligation it imposes, the United States will not be the only sufferers. The efforts of humanity and religion to substitute the appeals of justice and the arbitrament of reason for the coercive measures usually resorted to by injured nations will receive little encouragement from such an issue. By the selection and enforcement of such lawful and expedient measures as may be necessary to prevent a result so injurious to ourselves, and so fatal to the hopes of the philanthropist, we shall therefore not only preserve the pecuniary interests of our citizens, the independence of our Government, and the honor of our country, but do much, it may be hoped, to vindicate the faith of treaties, and to promote the general interests of peace, civilization, and improvement.

ANDREW JACKSON.

WASHINGTON, January 15, 1836.

The Message having been read,

Mr. CLAY moved that the Message, with the accompanying documents, be referred to the Committee on Foreign Relations.

The Message and documents were read, and referred to the Committee on Foreign Relations, as moved by Mr. CLAY.

TUESDAY, JANUARY 19.

Slavery in the District of Columbia.

The Senate proceeded to the consideration of the question on the petition, from sundry citizens of Ohio, to abolish slavery in the District of Columbia; the question being, "Shall the petition be received?"

Mr. LEIGH stated the precise question before the Senate to be, whether we ought to receive these Ohio memorials? This question, he thought, did not necessarily involve the question which had arisen in the debate, whether Congress has the constitutional power to abolish slavery in the District of Columbia. For, said he, supposing Congress to have the power, yet, as we have been assured on all hands that there is no difference of opinion on the question of policy—that it is the opinion of the great majority of the Senate, that indeed it is the unanimous opinion of this body, that it would be most impolitic, unwise, and unjust, to do what these petitioners pray Congress to do, I cannot

comprehend how good policy, sound wisdom, or justice, can require or even permit us to entertain these petitions. Can it be thought politic, wise, or just, to receive petitions of which the objects are acknowledged to be mischievous? The question whether they shall be received is a preliminary question which every Senator has a right to have put and decided upon every paper offered to this body, and the very purpose of it is to enable us to refuse a hearing to propositions of a mischievous tendency. There is nothing unusual in the motion of the gentleman from South Carolina that these memorials shall not be received. Short as has been my service in the Senate, I have known instances in which it has been resolved, upon the preliminary question put, that memorials should not be received, on the ground that they contained language disrespectful and calumnious of the Senate, or of particular members, though they related to subjects in which the petitioners were interested in common with the whole nation. Now, that seems to me the most trivial objection imaginable, compared with the objection which we make to these memorials, and the truth and justice of which, in point of fact and probable consequence, have not been denied—that they are calculated, if they are not intended, to disquiet the minds and disturb the peace of one-half the Union, and to produce or keep alive an agitation throughout the whole, which has a manifest tendency to weaken the political bonds by which we are united, and to jeopard all our institutions.

Gentlemen who are unwilling to vote against receiving these petitions are willing, as I understand, to vote to reject them as soon as they shall be received. The difference between not receiving and rejecting, in principle and effect, is, I suppose, no more than this—that rejecting, as it admits the right of the petitioners to be heard, and only declares the prayer of the petitions unreasonable, may nowise tend to discourage the renewal of such petitions, but may, on the contrary, suggest and invite a renewal of them in future and more propitious times; whereas a decisive vote of the Senate against the receiving of them, as it amounts to a denial of the right of the petitioners to be heard at all, may and ought to have the effect of discouraging and preventing the renewal of petitions of the like mischievous kind in future; whether it will or not, is another consideration. Supposing it expedient and prudent not to receive these petitions, (having regard to the probable effects,) is there any objection, in principle, to this course? Is there any principle that obliges us to receive petitions, without regard to their merits or purposes, and without consideration of consequences? The first amendment to the constitution has been referred to, which provides that Congress shall make no law abridging the right of the people peaceably to assemble and petition the Government for a redress of grievances. But the right here secured to

the people, to petition for a redress of grievances, must have relation to grievances of the petitioners themselves, not those of others; and the refusal of Congress to receive unjust, mischievous, or absurd petitions can hardly, by any violence of construction, be regarded as tantamount to the making of a law abridging the right of the people to petition for a redress of grievances. In the present case, the prayer for redress of grievances is, most palpably, only a pretext, a flimsy pretext, and a mockery—a pretext to justify the petitioners in meddling in affairs in which they themselves can be no way, or only very remotely, concerned, to the jeopardy of the rights, the interests, the peace and happiness, of a large portion of their fellow-citizens—a pretext for complaining of evils which, if they exist, can hardly, by any possibility, reach them—a pretext to justify the petitioners, while they are out of the way of all danger themselves, in disturbing the tranquility of the two States surrounding this District, and, by consequence, the whole Southern country. Redress of grievances! I defy the wit of man to point out any grievance which these Ohio petitioners can sustain from the existence of negro slavery in this District, greater than that which the female memorialists have discovered and gravely represented to us, namely, that they are prevented, by the dread of witnessing the horrors of slavery, from coming to Washington to hear the debates in Congress! Sir, this is the first time I ever heard it suggested that the right of petition imposed the duty on Congress to receive petitions acknowledgedly improper and mischievous, no matter why so improper and mischievous.

The District was ceded, not to the United States, but to Congress, which can claim no rights of sovereignty, whatever the United States may: it was ceded by the ordinary Legislatures of Maryland and Virginia, which never pretended to sovereignty. We know that the sovereignty of each State resides in the people. The principle, agreed on both hands, from which we are arguing, is, that Congress, in exercising exclusive legislation over the territory, property, and people of this District, are competent to do whatever the Legislatures of Maryland and Virginia are competent to do in respect to the territory, property, and people of those States, respectively; and (I add and insist) no more. Therefore, in order to show that Congress has constitutional power to abolish the rights of slave property in this District, it must first be shown that the Legislatures of those two States have, and had at the time of their cession, constitutional power to abolish the rights of slave property within their limits.

There has been in Virginia as earnest a desire to abolish slavery as exists anywhere at this day. It commenced with the Revolution, and many of our ablest and most influential men were active in recommending it, and in devising plans for the accomplishment of it. The legis-

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lature encouraged and facilitated emancipation by the owners, and many slaves were so emancipated. The leaning of the courts of justice was always *in favorem libertatis*. This disposition continued until the impracticability of effecting a general emancipation, without incalculable mischief to the master race, and danger of utter destruction to the other, and the evils consequent on partial emancipations, became too obvious to the Legislature, and to the great majority of the people, to be longer disregarded. There were some who very early wrote and published plans for accomplishing a general emancipation—considerate, prudent men, understanding the subject, and too wise to overlook or disregard the political considerations that belonged to it. Mr. Jefferson suggested a scheme; and the gentleman under whose care and direction my mind was instituted in the science of the law—I mean the elder Judge Tucker—proposed another plan for the purpose, and published a tract on the subject. It has been so long since I read these works, that I do not pretend to an accurate recollection of them; but I think the authors were chiefly intent on devising a feasible plan, and did not bestow much attention to the question by what authority such a plan, if practicable in itself and expedient, was to be accomplished; which is our question.

I can venture to say that the great body of the jurists of Virginia, as well as of the people, have always denied, and do yet deny, the constitutional power of the ordinary Legislature to abolish the rights of slave property without the consent of the individual owners. I do not know what opinion has been entertained in Maryland. I only know that the same reasoning is equally applicable to the legal institutions of both States.

I presume it can hardly be imagined that Congress can have derived from the acts of cession of Maryland and Virginia, that is, by virtue of those acts alone, any other or greater powers of legislation over the District than those Legislatures themselves had at the time of the cession; in other words, that the grantee has acquired, by the grant, more power than the grantors had to cede.

If the provision of the Constitution of the United States, giving power to Congress "to exercise exclusive legislation, in all cases whatsoever, over such District as may, by the cession of particular States, and acceptance of Congress, become the seat of Government of the United States," is to be taken as the only source and the only measure of the power of Congress; if this provision is to be construed as conferring on Congress absolute, sovereign, despotic authority over the people of the District, and their private rights of property, unlimited by the just measure of authority that belonged to the State Legislatures by which the territory was ceded—unlimited by any consideration of the nature, purposes, and exigencies, of the trust for which the power of exclusive legisla-

tion was given, then it will follow that Congress may, in its wisdom, or in its folly, abolish property in lands as well as in slaves; may enact an agrarian law; nay, more, may abolish the principle of property entirely, and establish a community of goods. Now, certainly, I do not apprehend any such absurd and mischievous legislation; but it is fair, it is even necessary, to pursue this claim of power to its consequences, in order to test its justice. The truth is, sir, that a grant of power of "exclusive legislation in all cases whatsoever," over a territory and the people in it, does not, in the just sense of that language, as used by American law-givers, import a grant of absolute, despotic, sovereign authority, or of any authority, at all to assume, abolish or impair, private rights of property. It imports a grant of the power of ordinary legislation. The proper as well as ordinary business of legislation is to regulate and secure the rights of property, never to annihilate them.

But, independently of this view of the subject, Mr. L. said, there were other objections to the competency of Congress to exercise the power in question, which seemed to him insuperable and conclusive. What, he asked, would be the effect of the abolition of slavery in this District? and what was, and must be, the only object of such a measure? To the consequences, he supposed, no man would affect to be blind; a large body of free negroes would at once be established in the midst of two of the principal slaveholding States; the District would become the receptacle in which other populations of the same class would soon be congregated; and these people, from their position, would necessarily have opportunities of daily intercourse with the slaves of the two adjoining States, of holding out to them every motive to revolt, inciting them to continual and dangerous insurrections, and supplying them with the means of waging a servile war against us. And as to the object and design of the abolitionists in urging this measure, it could not be disguised that abolition in this District was not sought as an end, but as the means of success in other and far greater enterprises; that their purpose was to gain a point, and a most commanding point too, from which they might prosecute their schemes of abolition, first in Maryland and Virginia, and then, in regular process, in all the other slaveholding States.

It was, doubtless, the conviction that these mischievous designs were entertained, and a sense of the dangerous consequences that would probably, if not unavoidably, ensue from the accomplishment of the immediate object, which produced so general an opinion in the Senate that it would be impolitic, unwise, and unjust, to abolish slavery in this District. But the same considerations, Mr. L. thought, must lead us to the conclusion that it was unconstitutional also; contrary to the spirit, if not to the letter, of the constitution. He had always supposed that, in giving power to call out the

militia to suppress insurrections, the constitution made it the duty of this Government to exert the power for the suppression of servile insurrections in any of the States;* and he asked whether it could possibly be maintained that Congress could constitutionally adopt any measure, of which the manifest and acknowledged tendency, if not the certain effect, was to incite those very servile insurrections which the Government was under a constitutional obligation to suppress? If we could not look for a limitation on the powers vested in a Government in the obligations imposed upon it, where could such limitations be found? Again, it was admitted, and had always been admitted, that Congress had no power to abolish or touch slave property in any of the States. But here was a measure proposed to us for adoption, which did not, indeed, directly abolish slavery in any of the States, but which was, nevertheless, the most efficient measure that could possibly be devised to bring about, and in fact to compel, general abolition in the slaveholding States—a measure which, for that reason, the advocates of universal abolition most ardently desired, as the means of accomplishing their avowed purpose. And the question was, whether it was within the competency of Congress to adopt such a measure? whether, while it acknowledged that it could not, without violating its constitutional duty to the slaveholding States, accomplish the end, it might yet authorize and provide the most efficacious means of ultimately accomplishing it? Mr. L. said it was a principle of all ethics—it was a principle especially applicable and valuable in the administration of all Governments of limited powers—that that which cannot be lawfully accomplished by direct means, cannot rightfully be attempted by any manner of indirection.

Mr. CALHOUN rose to make some remarks on

* The duty of Congress to suppress servile insurrections is not founded on the general clause in the first article of the constitution, which gives Congress power "to provide for calling forth the militia to execute the laws of the Union, to suppress insurrections and repel invasions;" but on the special clause in the fourth article, which makes it the duty of Congress, on an application from the Legislature of any State, or from the Governor when the Legislature cannot be convened, "to protect such State against domestic violence." (Art. 4, Sec. 4.) A slave insurrection being against the laws of a State, and being of domestic or home concern, the constitution does not allow the Federal Government to interfere in it except upon the application of the State authorities; while insurrections against the laws and authorities of the Union would be suppressed by Congress on its own view of the evil. But the reasoning of Mr. Leigh was right, though he deduced the duty of Congress from a wrong source; and that reasoning becomes stronger by referring the duty to the true source, and more consistent with State rights, and the delicacy of the question, and the exclusive dominion of the State over its slave property. Congress is bound to protect the State against "domestic violence," (i. e., slave insurrection,) upon its request; and, therefore, is bound not to promote, or become an instrument in promoting what it is bound to suppress.

the particular petition then before the Senate, which had been selected from the others, to induce a part of the Southern delegation to consent to receiving it. It was certainly, he admitted, less objectionable in its language than the petition coming from the ladies of the same State. This memorial, however, contained language highly reprehensible. It spoke of "dealing in human flesh." Will our friends of the South, said Mr. C., agree that they keep shambles, and deal in human flesh? And this petition was selected from the others, and pushed forward, in order to obtain the votes of gentlemen from the South. There was another phrase in the petition to which he objected. It speaks of us, said Mr. C., as pirates. Strange language! Piracy and butchery? We must not permit those we represent to be thus insulted on that floor. He stood prepared, whenever petitions like this were presented, to call for their reading, and to demand that they be not received. His object was to prevent a dangerous agitation, which threatened to burst asunder the bond of this Union. The only question was, how was agitation to be avoided. He held that receiving these petitions encouraged agitation, the most effectual mode to destroy the peace and harmony of the Union.

Mr. WRIGHT said he considered it to be his duty to trouble the Senate with a very few remarks before the pending question was put. He did so with extreme reluctance, arising from the deepest conviction that this whole subject had better not have been debated at all; that these petitions had better have been suffered to take their usual course, the course they had taken every year when he had been a member of either House of Congress; the course of other petitions; of being permitted to be read at the Clerk's table, and referred to the appropriate committee. His reluctance was greatly, and perhaps he might say principally, increased by the consciousness that the whole subject was surrounded with difficulties; that it was excitable in every aspect; that the different sections of the Union were liable to different affections from the expression of the same sentiment; and that some unmeasured phrase, or some imprudent remark, might fall from him, which, unintentionally on his part, might increase, rather than allay excitement, in the one portion or the other of the country.

Neither was he to debate the question of slavery in the sovereign States of this Union. The sacred and invaluable compact which constitutes us one people, had not given to Congress the jurisdiction over that question. It was left solely and exclusively to those States, and, in his humble judgment, it ought never to be debated here in any manner whatever.

He would go farther, and say that he did not purpose to trouble the Senate with a discussion upon the propriety of any action on the part of Congress in reference to the abolition of slavery in the District of Columbia, or in regard to the constitutional power of Congress over

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that subject. He had listened with pleasure and profit to the able argument of the honorable Senator from Virginia, (Mr. LEIGH,) upon the powers of Congress, and had marked his concessions of power equal to that possessed by the Legislatures of the respective States of Maryland and Virginia over the same subject within those States. He had not studied the question himself, because he was able to mark out his own course, with perfect satisfaction to his own mind, without examining either the constitutional powers of Congress, or the powers of those State Legislatures. He was ready to declare his opinion to be, that Congress ought not to act in this matter, but upon the impulse of the two States surrounding the District, and then in a manner precisely graduated by the action of those States upon the same subject. Had the constitution, in terms, given to Congress all power in the matter, this would, with his present views and feelings, be his opinion of the expedient rule of action, and entertaining this opinion, an examination into the power to act had been unnecessary to determine his vote upon the prayer of these petitions. He was ready promptly to reject their prayer, and he deeply regretted that he was not permitted so to vote without debate.

The refusal to receive the petitions, Mr. W. said, was, to his mind, a very different question. That was the question now presented. If the refusal should be sanctioned by the Senate, upon the broad ground of the subject prayed for, and not upon the distinct objection of indecorous language or matter in the petition itself, it would be considered and felt, in many sections of the country, as a denial of the constitutional right to petition, and, as such, would be infinitely more calculated to produce and increase, than to allay, excitement. The prompt rejection of the prayer of these petitions would express the sense of the Senate, in the most marked and decisive manner, against the objects of the petitioners. The refusal to receive the petitions would raise a new issue, infinitely more favorable, as he deeply feared, to the schemes of these mad incendiaries than all which had gone before this proposed step.

He entreated, he said, his brethren of the South to reflect before they gave this immense advantage to the agitators. He was aware that the Southern feeling must be sensitive, perhaps beyond his ability to estimate, upon this subject of domestic slavery. The constitutional rights, the personal and private interests, the domestic peace and domestic security, of the people of the slaveholding States, compelled them to feel deeply and keenly upon every agitation of this delicate question. He could not be insensible to the existence of these feelings, or to their justice. Yet, might he not appeal to members of this body from those States, and ask them to remember that excitement, growing out of the same subject, was also prevailing in the non-slaveholding States? That the public mind in those States had become aroused to

the subject? That a limited number of individuals, from what motive he would not attempt to say, were making it their calling and business to increase that excitement, and to make it universal? And might he not claim that the action of the Senate should be such as would be most likely to calm the excitement in all the States and in every section of the Union?

Mr. CALHOUN could not concur with the gentleman from New York that so much delicacy was to be shown to the very small part of his own State he referred to, that these petitions were not to be rejected, lest the refusal to receive them might be considered as a violation of the right of the citizen to petition Congress. But, said Mr. C., does the gentleman look at our side of the question? If his constituents, continued Mr. C., are to be treated with so much respect, that their petitions are to be received, what is to be considered as due to our constituents? The Senator considered the petition before the Senate as moderate in its language—he did not say otherwise—language, said Mr. C., which treats us as butchers and pirates. The Senator said that they must receive this petition, and reject it, lest it might be considered as violating the right of petition. To receive it, and immediately reject it. This looked something like juggling. Was the petition of sufficient consequence to be received, and at the same time of so little consequence as to be immediately rejected? Was it intended merely that this petition was to be put on the files of the Senate as a record to show the opinion entertained of the people of the South by these abolitionists?

The gentleman said that unanimity of opinion in the Senate was very desirable. He said so too. Let the gentleman and his friends join us, said Mr. C., and in that way we can obtain unanimity of opinion. If, as the gentleman said, the petition was to be immediately rejected, why receive it at all? Would the gentleman say that a refusal to receive the petition would press in the slightest degree on the constitutional right of the people peaceably to assemble and petition for a redress of grievances? If the gentleman had made up his mind to reject the petition, he could have no insuperable objection to refuse to receive it. He repeated, that so long as these petitions could be received in the Senate, so long would agitation on the subject continue. The question must be met on constitutional grounds, or not at all.

Mr. MORRIS observed that, in presenting these petitions, it was his sincere desire to avoid any thing like agitation or excitement in that body. Although he had had these petitions in his possession for some days, he refrained from presenting them until he had an opportunity of observing what was done with others of a like tenor. The question now assumed a grave aspect. The constitutional rights of the people peaceably to assemble and petition for a redress of grievances was involved. On the subject of these petitions, it was not his

desire at present to say one word; his wish was that the great question as to the right of the people of this Union to petition Congress might come up unembarrassed by the objections as to the language in which the petition was drawn. It seemed that these objections did not apply to the petition presented by the Senator from Pennsylvania, (Mr. BUCHANAN,) and he wished the question to be taken on that petition. He concurred with the Senator from South Carolina, (Mr. CALHOUN,) that there was no difference in substance between the last-named petition and those he (Mr. M.) had presented; that those who voted against receiving the one ought to vote against receiving the other. His wish was to disembarass this question of the right of petition of the difficulties as to the language of the petitions, and he would therefore ask leave of the Senate to withdraw the one he had presented.

Mr. MORRIS then withdrew the petition.

On motion of Mr. BUCHANAN, the Senate took up the petition presented by that gentleman from the Caln Quarterly Meeting of Friends, of Lancaster county, Pennsylvania, praying Congress to abolish slavery within the District of Columbia, together with the motion of Mr. B. that the petition be rejected. The question pending was the one raised by Mr. CALHOUN—"Shall the petition be received?"

Mr. CALHOUN called for the reading of the petition.

On motion of Mr. MORRIS, the yeas and nays were ordered.

Mr. CALHOUN said that the language even of this petition was very strange. It held up the buying and selling of slaves in the Southern States to be as flagrant a wrong as the slave trade itself on the coast of Africa; declaring "that it was as inconsistent in principle, as inhuman in practice, as the foreign slave trade." The foreign slave trade, Mr. C. said, consisted in seizing on the Africans by violence, and selling them into slavery. Now, he was not willing to admit the parallel between slavery in the Southern States and this foreign slave trade. We ourselves, said he, have denounced this African slave trade, and made it piracy; though he did not himself believe that the offence could be properly designated as piracy, and ever should regret that this term had been applied to it in our laws. With regard to the petition, if he had no other objection to it than that of its using this language, he would not on that account receive it.

Mr. KING, of Alabama, wished, as an individual, and as a representative, to give all the individuals of the Union, of every class, a full enjoyment of the rights secured to them by the constitution. If we, said Mr. K., from the whim or excitement of the moment, refuse to receive these memorials, might they not abridge the right of petitioning? When the language was decent and respectful, it was the duty of every Senator to show it every mark of respect due to its character. And then, when

it was received, if it was found to ask for an intermeddling with the constitutional rights of any of the States, to stamp it with the disapprobation it deserved.

Anxious as he was that no excitement should grow out of this matter, his design was to give every individual his rights, he would vote for the reception of this petition. The magnanimous and patriotic stand taken by the gentleman from Pennsylvania, (Mr. BUCHANAN,) on this question, was worthy of himself and of the great State he represented, and was an earnest to him of the disposition of that and other Northern States to arrest the course of those deluded people in producing mischief here and elsewhere. After this petition was received, he was prepared to take the most efficient and energetic action to put a stop to this fanaticism.

Mr. CALHOUN had heard, with much regret, the argument of his friend from Alabama, (Mr. KING.) He understood the gentleman to put this question of receiving the petition on constitutional grounds. He asked the Senator if he was aware of the extent to which this doctrine would carry him. Was he prepared to receive petitions to abolish slavery in the navy yards and arsenals of the United States, in the Southern section of the Union? Was he prepared to receive petitions couched in abusive and indecorous language?

[Here Mr. KING said, No!]

The Senator answered no. Then I ask him, said Mr. C., to show the distinction between such petitions as he has described and the one before the Senate. If the right to have petitions received was constitutional, then there could be no qualification of that right. The Senator from Alabama, by saying no, surrendered the ground he had taken. Then, by what possibility, he asked him, was he prepared to receive petitions to abolish slavery in this District? If he was prepared to receive such petitions, what was to prevent him from receiving petitions to abolish slavery in every arsenal and navy yard in every State in the Union.

He confessed he was astonished at the gentleman's arguments. The right of petition was cautiously guarded in the constitution: "Congress shall make no law prohibiting the right of the people peaceably to assemble and petition for a redress of grievances." By these plain terms it was expressly limited; and yet, when gentlemen came to the petitions of these fanatics, for abolishing slavery in this District, they were disposed to enlarge the construction. I know, said Mr. C., that the Senator from Alabama represents constituents more deeply interested in this question than mine. The South-western States were more deeply interested than the South Atlantic States, as the former had a growing slave population, continually augmenting by purchases from Maryland, Virginia, North and South Carolina, and Georgia; and he was, therefore, the more astonished at his argument.

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Not to receive these petitions was considered wonderfully disrespectful to these petitioners; but to receive and reject them immediately was considered entirely respectful. What did gentlemen mean? He could not, for the life of him, make out why gentlemen were so anxious to receive these petitions, when they were determined to reject them.

Mr. MOORE desired more time for reflection before he recorded his views, particularly since his colleague had indicated the course he intended to pursue. He could not see the propriety of the gentleman from Pennsylvania in offering the petition he had presented, and forthwith moving to reject it. If I had a petition to present here, said Mr. M., the consideration that would induce me to move its rejection would induce me to withhold it.

MONDAY, January 25.

Mr. ROBINSON presented the credentials of W. D. EWING, elected a Senator of the United States from the State of Illinois, in the room of Elias K. Kane, deceased. Mr. EWING was introduced, and qualified.

TUESDAY, January 26.

Michigan Memorial—Admission into the Union.

The memorial from the Legislature of Michigan, on the subject of her admission into the Union, having been presented,

Mr. HENDRICKS submitted the following:

Ordered, That the memorial purporting to be from the Senate and House of Representatives of the State of Michigan be referred to the select committee, appointed on the 22d of December, in relation to the admission of Michigan into the Union, and that the Senate regard the same in no other light than as the voluntary act of individuals."

Mr. DAVIS was in favor of giving the petition the usual direction. A petition from a man representing himself to be a ship owner did not prove him to be a ship owner, nor did the petition of a manufacturer, representing himself as such, prove him to be one, and we are not bound to recognize their character. Now, these persons represent themselves to be, I suppose, a political body. As a matter of principle, when a petition came here in respectful terms, it ought to be treated in a respectful manner. He would be satisfied to consider the petition as containing a faithful description of themselves, and was disposed to let it take the ordinary course.

Mr. NILES said that, aside from matters of form, he was disposed to regard the petition as coming from the people of Michigan, claiming political rights of the highest magnitude, and he could not refuse to hear them, and least of all a memorial coming from a whole people, claiming admission into the federal Union. Have they, said Mr. N., not a right to select their own mode of application? They came here not asking a matter of favor, but a matter

of right. Had they not a right to select their own committee to represent those rights? For his part, he was disposed to hear them. If there ever was a people who claimed rights of a high character, it was those who had political rights, and were not represented. He regretted to see a disposition manifested to shut out the inquiry, and to prevent them from being heard.

Mr. EWING, of Ohio, said he would assure the Senator from Connecticut that there had been no attempt made there to shut this people out from a hearing. There were ways enough of presenting this communication to Congress without the petitioners presenting themselves as the Legislature of a State. His objection was to the form in which the memorial came, and not to giving the people of Michigan a hearing. Gentlemen therefore were mistaken, and misstated them in saying that they were opposed to giving the people of Michigan an opportunity of being heard. The true question before the Senate was, whether this memorial came from a State—whether the Senate could address Michigan as a State, and receive communications from her as such.

Mr. CALHOUN regarded the political existence of Michigan as a State, as a nonentity. The gentleman from Massachusetts (Mr. DAVIS) had said that we were not bound to recognize a petitioner as a manufacturer, because he called himself one in the petition. That case did not apply to a corporate body, and especially to a political body. The petition must or must not be received. The position it assumed was strongly illustrative of the position some gentlemen had assumed on this floor. To receive this petition would amount to a recognition of Michigan as a State, and he could therefore not agree to receive it.

Mr. CLAYTON, in reply to Mr. CALHOUN, said he hoped the Senator from Indiana would not vary his motion. It appeared to him that the course now proposed was the very one to prevent all dissatisfaction on either side. By referring the subject to the select committee, with the qualification proposed, we do not, said he, commit ourselves at all as to whether Michigan is, or is not, a State.

Mr. HENDRICKS's motion was adopted, and the memorial referred to the select committee appointed on the same subject.

THURSDAY, January 28.

Slavery in the District of Columbia.

Mr. SWIFT presented a petition from citizens of Vermont, praying for the abolition of slavery in the District of Columbia.

Mr. CALHOUN desired to know if the language of the petition was respectful to those who had sent them there. He therefore wished to hear the petition read.

[The petition was read by the Secretary.]

Mr. C. demanded the preliminary question on receiving the petition. The Senator from Vermont, he said, objected to the calling these pe-

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April, 1835, and copies of any other official note addressed by Mr. Livingston, during his mission to France, either to the French Minister of Foreign Affairs or to the Secretary of State, not heretofore communicated to Congress.

THURSDAY, February 4.

Incendiary Publications.

Mr. CALHOUN, from the select committee to whom that part of the Message of the President was referred, made a report, accompanied by the following bill :

A BILL prohibiting deputy postmasters from receiving or transmitting through the mail, to any State, Territory, or District, certain papers therein mentioned, the circulation of which, by the laws of said State, Territory, or District, may be prohibited, and for other purposes.

Be it enacted, &c., That it shall not be lawful for any deputy postmaster, in any State, Territory, or District, knowingly to receive and put into the mail, any pamphlet, newspaper, handbill, or other paper, printed or written, or pictorial representation, touching the subject of slavery, addressed to any person or post office in any State, Territory, or District, where, by the laws of the said State, Territory, or District, their circulation is prohibited. Nor shall it be lawful for any deputy postmaster in said State, Territory, or District, knowingly to deliver to any person any such pamphlet, newspaper, handbill, or other paper, printed or written, or pictorial representation, to any person whatever, except to such person or persons as are duly authorized by the proper authority of such State, Territory, or District, to receive the same.

SEC. 2. *And be it further enacted,* That it shall be the duty of the Postmaster General to dismiss from office any deputy postmaster offending in the premises, and such deputy postmaster shall, on conviction thereof, in any court having competent jurisdiction, be fined in any sum not less than ——— dollars, and not more than ——— dollars, according to the aggravation of the offence, at the discretion of the court.

SEC. 3. *And be it further enacted,* That it shall be the duty of deputy postmasters, mail carriers, and other officers and agents of the Post Office Department to co-operate, as far as may be, to prevent the circulation of any pamphlet, newspaper, handbill, or other paper, printed or written, or pictorial representation as aforesaid, in any State, Territory, or District, where, by the laws of said State, Territory, or District, the same are prohibited; and that nothing in the acts of Congress to establish and regulate the Post Office Department shall be construed to protect any deputy postmaster, mail carrier, or other officer, or agent of said Department, convicted of knowingly circulating in any State, Territory, or District, as aforesaid, any such pamphlet, newspaper, handbill, or other paper, printed or written, or pictorial representation, forbidden by the laws of such State, Territory, or District.

SEC. 4. *And be it further enacted,* That it shall be the duty of the Postmaster General to furnish to the deputy postmasters, and the agents and officers of the Department, copies of the laws of the several States, Territories, and Districts, prohibiting the publication or circulation of any pamphlet, newspaper, handbill, or other paper, printed or written,

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or pictorial representation, within the limits of said States, Territories, or Districts, for their government in the premises; and make such regulations, and give such instructions for carrying this act into effect, as may not be contrary to law.

Sec. 5. *And be it further enacted*, That the deputy postmasters of the offices where the pamphlets, newspapers, handbills, or other papers, printed or written, or pictorial representations aforesaid, may be deposited, shall, under the instructions of the Postmaster General, from time to time give notice of the same, so that they may be withdrawn by the person depositing them; and, if not withdrawn in the space of one month thereafter, shall be burnt or otherwise destroyed.

Mr. MANGUM moved that five thousand extra copies of the report be printed.

Three members of the committee (Mr. DAVIS, of Massachusetts, Mr. KING, of Georgia, and Mr. LINN, of Missouri) rose and expressed dissent from the report.

Mr. CALHOUN said that a majority of the committee did not concur in the report, though there were two members of it, himself and the gentleman from North Carolina, who concurred throughout; three other gentlemen concurred with the greater part of the report, though they dissented from some parts of it, and two gentlemen concurred also with some parts of it. As to the bill, two of the committee would have preferred a different one, though they had rather have that than none at all; another gentleman was opposed to it altogether. The bill, however, was a natural consequence of the report, and the two did not disagree with each other.

Mr. MANGUM modified his motion by moving to print 5,000 copies of the report, together with the bill; which motion was agreed to.

MONDAY, February 8.

France and the United States—Mediation of Great Britain—Message from the President.

A Message was received from the President of the United States on the subject of the mediation of Great Britain, as follows:

WASHINGTON, February 8, 1836.

To the Senate and House of Representatives:

The Government of Great Britain has offered its mediation for the adjustment of the dispute between the United States and France. Carefully guarding that point in the controversy which, as it involves our honor and independence, admits of no compromise, I have cheerfully accepted the offer. It will be obviously improper to resort even to the mildest measures of a compulsory character, until it is ascertained whether France has declined or accepted the mediation. I therefore recommend a suspension of all proceedings on that part of my special message of the 15th of January last, which proposes a partial non-intercourse with France. While we cannot too highly appreciate the elevated and disinterested motives of the offer of Great Britain, and have a just reliance upon the great influence of that power to restore the relations of ancient friendship between

the United States and France, and know, too, that our own pacific policy will be strictly adhered to until the national honor compels us to depart from it, we should be insensible to the exposed condition of our country, and forget the lessons of experience, if we did not efficiently and sedulously prepare for an adverse result. The peace of a nation does not depend exclusively upon its own will, nor upon the beneficent policy of neighboring powers; and that nation which is found totally unprepared for the exigencies and dangers of war, although it come without having given warning of its approach, is criminally negligent of its honor and its duty.

I cannot too strongly repeat the recommendation already made, to place the seaboard in a proper state for defence, and promptly to provide the means for amply protecting our commerce.

ANDREW JACKSON.

On motion of Mr. CLAY, the Message was referred to the Committee on Foreign Relations, and ordered to be printed.*

New York Sufferers.

Mr. WRIGHT presented the memorial of the Chamber of Commerce of the city of New York, urging the passage of the bill now before the House of Representatives for the extension of the time of payment of the duty bonds falling due in the city of New York subsequent to the great conflagration of the 16th of December last, and said he felt bound to occupy a few moments of the time of the Senate in bringing to their attention the suggestions contained in this memorial. The memorial stated that the importance of the passage of the bill had been vastly increased by the delay which had already taken place.

Mr. W. then moved that the memorial, without reading, be laid on the table and printed; which motion prevailed without a division.

THURSDAY, February 11.

District of Columbia—Assumption of the Dutch Debt.

On motion of Mr. TYLER, the special order was postponed until Monday, and the Senate took up the bill for the relief of the several corporations of the District of Columbia:

* This proffered mediation of Great Britain is one of the most beautiful incidents in the history of nations. France and the United States had fought together against Great Britain: now Great Britain steps between France and the United States to prevent them from fighting each other. George the Third received the combined attacks of the French and Americans: his son, William the Fourth, interposes to prevent their arms from being turned against each other. This mediation, voluntarily offered, and from motives elevated and disinterested, was accepted by both parties, and in four months the delayed instalments were paid, and the two countries, allies in the war of Independence and on the eve of a rupture now, were restored to their ancient friendly relations.

BILL for the relief of the several corporate cities of the District of Columbia.

Be it enacted, &c., That the Secretary of the Treasury be, and he is hereby, authorized and directed to enter into and make such contract or arrangements as to him may appear proper, with the holders of the evidences of debt contracted and entered into between the cities of Washington, Alexandria, and Georgetown, and certain individuals in Holland, negotiated by Richard Rush, Esq., on behalf of said corporate bodies, for the purpose of fully assuming upon the United States the entire obligation of paying said debts, with the accruing interest thereon, according to the terms of said contract; and that the Secretary of the Treasury be directed and authorized to pay, out of any moneys in the treasury not otherwise appropriated, such sum or sums as have been paid, or from time to time may become and fall due in the shape of interest, exchanges, costs, or expenses, incurred by the terms of said contract of loan, or in and about the negotiation thereof.

The bill was recommitted.

FRIDAY, February 12.

Slavery Memorials.

The Pennsylvania memorial praying for the abolition of slavery in the District of Columbia, was called up, as the first on the list of general orders.

Mr. KING, of Georgia, said: These petitions had been coming here without intermission ever since the foundation of the Government, and he could tell the Senator (Mr. CALHOUN) that if they were each to be honored by a lengthy discussion on presentment, an honor not heretofore granted to them, they would not only continue to come here, but they would thicken upon us so long as the Government remained in existence. We may seek occasions, said Mr. K., to rave about our rights; we may appeal to the guarantees of the constitution, which are denied; we may speak of the strength of the South, and pour out unmeasured denunciations against the North; we may threaten vengeance against the abolitionists, and menace a dissolution of the Union, and all that; and thus exhausting ourselves mentally and physically, and setting down to applaud the spirit of our own efforts, Arthur Tappan and his pious fraternity would very coolly remark: "Well, that is precisely what I wanted; I wanted agitation in the South; I wished to provoke the 'aristocratic slaveholder' to make extravagant demands on the North, which the North could not consistently surrender them. I wished them, under the pretext of securing their own rights, to encroach upon the rights of all the American people. In short, I wish to change the issue; upon the present issue we are dead. Every movement, every demonstration of feeling among our own people, shows that upon the present issue the great body of the people is against us. The issue must be changed, or the prospects of abolition are at an end." This language, Mr. K.

said, was not conjectured, but there was much evidence of its truth.

Sir, said Mr. K., if Southern Senators were actually in the pay of the directory on Nassau street they could not more effectually co-operate in the views and administer to the wishes of these enemies to the peace and quiet of our country. And yet, said Mr. K., we have just been charged with sacrificing Southern interests to attain a political end. [Here Mr. MOORE said the Senator from Georgia had misunderstood him, and made some explanations.] Mr. K. said he had expressly understood the Senator to say that the object of the course of the administration party was to favor the pretensions of a certain Northern candidate for the presidency, but accepted the explanation.

It was a good maxim in politics as well as private life, Mr. K. said, never to demand too much. By making unreasonable demands, we often lost that to which we were plainly entitled. If the non-slaveholding States were willing to allow us all our rights, we should be satisfied. We should never leave an impregnable position for the doubtful prospects of a dangerous ally.

Notwithstanding what he had said, he was not prepared to say that the motion of the Senator from Carolina might not be entertained without any dangerous invasion of a constitutional right. It has been insisted that the memorialists bear no interest in the subject, and therefore are not entitled to the right of petition. We should recollect, however, that the right of petition is esteemed a very sacred one in this country; and we should make up no unnecessary issues about it. The people on these matters usually measured in the lump; they did not understand these nice constitutional distinctions and parliamentary rules, and a refusal to receive petitions on such grounds would be looked upon as an arrogant attack upon a popular right, and would be so used by the enemies of the South.

But why were we bound to refuse to receive these petitions? If he understood Senators, it was on two grounds: the first was, that the language reflected on a portion of the members. Now, said Mr. K., every Southern Senator feels an equal indignation at having these memorials brought before them. But he did not know how the memorialists, in this particular case, could have presented the subject at all in more respectful language than they have employed. But he said he was already strongly committed on this point, by votes given on other occasions, since he had been in the Senate. He could not change his action until he had changed his opinion. He considered the pretensions of the Senate on this subject the most dangerous and extraordinary ever tolerated in any representative Government. The doctrine, as acted on in a few cases in the Senate, was, that we would not receive any memorial that might, in the opinion of the Senators, "reflect on the body, or any member of it." On this

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principle, how are the people ever to obtain reform of abuses, originating in the two Houses, or either House? Where would the principle lead to? He would not dwell upon the subject, but he would put a few plain cases, that would be well understood by Senators. We have, said Mr. K., been in the habit of voting ourselves privileges. All exclusive privileges are justly odious to our people. They are inconsistent with the American character, and opposed to the genius of our institutions. We have voted ourselves the franking privilege, not during the session, as formerly, but in perpetuity. This privilege, it was known, was sometimes grossly abused, which would be strong argument for its total repeal. He also spoke of the purchase of books for the members, and referred to the practice of members in paying for their newspapers out of the public money, in support of which practice he had never been able to elicit any argument, except the unanswerable one of the yeas and nays. The contingent expenses of the two Houses had been also swelled in a few years to an enormous extent. There were other cases of more magnitude, which might be made the subject of complaint by the people, but he referred to them as obvious cases, that had been spoken of during the present session. Suppose, then, the people were to petition Congress to abolish the franking privilege, and state, as a reason, the enormous abuses to which it is subject. Suppose they look at the sum total of your contingent account, and, believing it impossible it could be honestly expended for any contingencies that the constitution will allow, pray Congress to look into the subject, and reform the abuse; according to this novel doctrine, any Senator might rise and move that "the memorial be not received," because it "reflected on the Senate or some of its members." Sir, said Mr. K., I deny the whole doctrine. I deny it in the general, and I deny it in the particular; I deny it in the gross, and I deny it in the detail. It has not one single inch of ground in the constitution to stand upon. We were sent here to do the business of the public, and not to set up arbitrary codes for the protection of our dignity, and then be left to determine what dignity means. I consider true senatorial dignity to consist in a straightforward, independent discharge of our constitutional duties, and not in searching into the language employed by our constituents, when they ask us for a redress of grievances, to see if we cannot find some pretext to commit a fraud upon the constitution. If the people thought we had done wrong, they had a right plainly to tell us so; and if we found the charge true, we should set about a reformation. If untrue, we should reject their petitions on that account.

Mr. K. said he had spoken of this doctrine in a general point of view, and could not honor the abolitionists so far as to suffer them to provoke him to a violation of the constitution as he understood it.

In the second place, it was contended that we should not receive the petition, because to grant it would be unconstitutional. Was it not apparent that this was assuming prematurely that which we should arrive at by an examination of the subject? It had been asked—why receive the petition, if it were afterwards to be rejected? Senators had asked—what was the difference between the two modes of proceeding? He would ask, in turn, if there was no difference, why did gentlemen insist on their motion? There was a difference, however, which he thought was well understood.

To refuse to receive, denied the right of being heard. To receive, and reject the prayer of the petitioner, gave the privilege of a hearing, and the judgment of the Senate upon the subject. This petition, he said, had been read, and its object considered; but not necessarily so. The motion was perfectly in order, before reading, on a statement of the nature of the memorial by the Senator offering it, and the theory of the motion was to deny the right to a consideration. This consideration might change an opinion previously formed without it; and should not be denied because our first impressions may be against the rights of the petitioners.

Mr. K. said that he believed, also, after some reflection upon the subject, that Congress had no constitutional power to emancipate the slaves in the District of Columbia, in the manner contemplated by the memorialists. He believed that Congress had precisely the same power over the subject in the District of Columbia that the States had in their respective limits, and he agreed perfectly with the Senator from Virginia (Mr. LEIGH) that the States themselves had no power to take the slave from the owner, except for public use, and for a just compensation. He did not agree, however, with the Senator from Virginia in his construction of the proviso in the Virginia cession, as the plain import and intention of the proviso was only to negative the idea that the soil was transferred with the jurisdiction. But the aid of this proviso was not necessary to the constitutional argument, and he did not believe the Senator placed much stress upon it.

Mr. CALHOUN said: I have heard with deep mortification and regret the speech of the Senator from Georgia; not that I suppose that his arguments can have much impression in the South, but because of their tendency to divide and distract the Southern delegation on this, to us, all momentous question. We are here but a handful in the midst of an overwhelming majority. It is the duty of every member from the South, on this great and vital question, where union is so important to those whom we represent, to avoid every thing calculated to divide or distract our ranks. I, said Mr. C., the Senate will bear witness, have, in all that I have said on this subject, been careful to respect the feelings of Southern members who have differed from me in the policy to be pur-

sued. Having thus acted, on my part, I must express my surprise at the harsh expressions, to say the least, in which the Senator from Georgia has indulged.

[Mr. KING here asked that the expressions might be specified.]

Mr. C. replied that he understood the Senator to designate the demand of the question on the receiving of the petition as a mere pretext.

[Mr. KING disclaimed having done so.]

Mr. C. said that he certainly understood the Senator from Georgia as having used the expression, but was gratified that he had disclaimed it; but he could not be mistaken in saying that the Senator had represented the course which I, and other Senators who think with me, have pursued in reference to this subject, as aiding and playing into the hands of A. Tappan & Co., and calculated to produce agitation. I would ask, said Mr. C., upon what possible authority such assertion can be made? What has been my course? Has it not been purely defensive? I am averse to Congress touching the subject of abolition, and from the beginning of the session have prescribed to myself, as a rule not to be departed from, a resistance of all attempts to bring the subject within the sphere of the action of this body. Acting on this principle, I felt myself bound, said Mr. C., to demand the question on receiving the various petitions which have been presented, in order to shut the doors of the Senate against the admission of the wicked and fanatical agitators. Had I not a right, said Mr. C., secured by the parliamentary rules of this body, to demand this question, and was I not bound to exercise it on this occasion? When the incendiaries present themselves here, in violation of the constitution, with petitions in the highest degree calumnious of the people of the South, holding them up as despots, dealers in human flesh, and pirates, was it for me, representing one of the Southern States, to be silent on such an occasion, and to indorse such slanders on my constituents, by receiving them? I certainly do not so estimate my duty. I consider it the proper occasion to exercise the right, which belongs to me as a Senator, to demand the question on the reception; for doing this I have been accused as an agitator. This is the utmost extent of my offending. But, said Mr. C., let us inquire, if there has been agitation, who are the agitators, and who is responsible for discussion? Is it I and those who have acted with me; who have acted on the defensive; who have demanded a question which every Senator has the acknowledged right of demanding on every petition, or those who have resisted that demand? And on what ground has this demand been resisted? Can any be more extraordinary than that to refuse to receive is a violation of the constitution? What are the words of that instrument? That "Congress shall pass no law prohibiting the people from peaceably assembling and praying

for a redress of grievances." Has any such law been passed? Have these agitators been prohibited from praying for a redress of grievances? Does any one pretend that such is the fact? How, then, can it be asserted that, to refuse to receive these slanderous petitions, praying the enactment of unconstitutional laws, is a violation of the constitution?

I, said Mr. C., am gratified that the Senator from Georgia concedes the point that Congress has no power to abolish slavery in the District—a concession which atones for much which he has said. To yield the right here, is to yield the right to Congress to abolish slavery in the States. I would proclaim, said Mr. C., to the whole South that, if the right be surrendered to abolish slavery in the District, their most effectual guard is surrendered. But I will ask the Senator from Georgia, if Congress has no right to abolish slavery in this District more than to do so in the States, upon what principle can he vote upon the reception of this petition which, he concedes, prays the Senate to pass a law in violation of the constitution? Let us change the question, to test the principle on which the Senator acts. He admits the constitutional power of Congress over the subject, whether in this District or in the States, to be the same; I ask him, then, said Mr. C., addressing Mr. KING, is he prepared, as a Senator from Georgia, to vote to receive a petition for the abolition of slavery in that State—a petition, too, for his principles go to that extent, couched in the most abusive and slanderous language against the State and its institutions?

[Mr. KING replied, yes.]

All, then, said Mr. C., that I can say is, that the Senator and myself are so organized as to have feelings directly dissimilar. Rather than receive such a petition against South Carolina, against those whom I represent, I would have my head dis severed from my body.

Mr. HILL said: I do not object to many of the positions taken by Senators on the abstract question of Northern interference with slavery in the South. But I do protest against the excitement that is attempted on the floor of Congress, to be kept up against the North. I do protest against the array that is made here of the acts of a few misguided fanatics as the acts of the whole or of a large portion of the people of the North. I do protest against the countenance that is here given to the idea that the people of the North generally are interfering with the rights and property of the people of the South.

There is no course that will better suit the few Northern fanatics, than the agitation of the question of slavery in the halls of Congress—nothing will please them better than the discussions which are taking place, and a solemn vote of either branch denying them the right to prefer petitions here, praying that slavery may be abolished in the District of Columbia. A denial of that right at once enables them and not without color of truth, to cry out that

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the contest going on is "a struggle between power and liberty."

Believing the intentions of those who have moved simultaneously to get up these petitions at this time to be mischief, I was glad to see the first petition that came in here laid on the table without discussion, and without reference to any committee. The motion to lay on the table precludes all debate; and, if decided affirmatively, prevents agitation. It was with the view of preventing agitation of this subject that I moved to lay the second set of petitions on the table. A senator from the South (Mr. CALHOUN) has chosen a different course; he has interposed a motion which opens a debate that may be continued for months. He has chosen to agitate this question; and he has presented that question, the decision of which, let Senators vote as they may, will best please the agitators who are urging the fanatics forward.

Now, sir, as much as I abhor the doings of weak or wicked men who are moving this abolition question at the North, I yet have not as bad an opinion of them as I have of some others who are attempting to make of these puerile proceedings an object of alarm to the whole South.

Of all the vehicles, tracts, pamphlets, and newspapers, printed and circulated by the abolitionists, there is no ten or twenty of them that have contributed so much to the excitement as a single newspaper printed in this city. I need not name this paper, when I inform you that for the last five years it has been laboring to produce a Northern and a Southern party; to fan the flame of sectional prejudice; to open wider the breach, to drive harder the wedge, which shall divide the North from the South. It is the newspaper which in 1831-32 strove to create that state of things in relation to the tariff which would produce inevitable collision between the two sections of the country, and which urged to that crisis in South Carolina, terminating in her deep disgrace—

[Mr. CALHOUN here interrupted Mr. HILL, and called him to order. Mr. H. took his seat, and Mr. HUBBARD (being in the chair) decided that the remarks of Mr. H. did not impugn the motives of any man; they were only descriptive of the effects of certain proceedings upon the State of South Carolina; and that he was not out of order.]

Mr. HILL resumed. It is the newspaper which condemns or ridicules the well-meant efforts of an officer of the Government to stop the circulation of incendiary publications in the slaveholding States, and which designedly magnifies the number and the efforts of the Northern abolitionists. It is the newspaper which libels the whole North by representing the almost united people of that region to be insincere in their efforts to prevent the mischief of a few fanatical and misguided persons who are engaged in the abolition cause.

I have before me a copy of this newspaper,

(the United States Telegraph, Duff Green, editor,) filled to the brim with the exciting subject. It contains, among other things, a speech of an honorable Senator, (Mr. LEIGH, of Virginia,) which I shall not be surprised soon to learn has been issued by thousands and tens of thousands from the abolition mint at New York, for circulation in the South. Surely the honorable Senator's speech containing that part of the Channing pamphlet, is most likely to move the Southern slaves to a servile war, at the same time the Channing extracts and the speech itself are most admirably calculated to awaken the fears or arouse the indignation of their masters. The circulation of such a speech will effect the object of the abolitionists without trenching upon their funds. Let the agitation be kept up in Congress, and let this newspaper be extensively circulated in the South, filled with such speeches and such extracts as this exhibits, and little will be left for the Northern abolitionists to do. They need do no more than send in their petitions; the late printer of the Senate and his friends in Congress will create enough of excitement to effect every object of those who direct the movements of the abolitionists.

Within a few days there has been introduced into this body a *lusus naturæ*, an animal with two heads, in the shape of a report, laboring to prove that Congress has no right to pass laws which shall prevent the circulation, through the mail, of incendiary publications, and at the same time presenting a bill for the sanction of the Senate, which makes it a crime for the officers of the Post Office to suffer these publications to pass through their offices. This report, this monster, whose paternity is disavowed by a majority of the committee which creates it, comes to us in such a "questionable shape" that I will speak of it. Had it not become a habit of this body to yield much to courtesy, to certain Senators of the majority, I would say that the monster comes here entirely out of order. It is, however, so great a favorite, that while the Senate can order no more than three thousand extra copies of a Message of the President of the United States, highly interesting to the people of the country at the moment, five thousand extra copies are instantly ordered of this document, disavowed and disclaimed by a majority of the committee reporting it! The printing of these five thousand copies, if Senators will circulate and frank them, will save the abolition society at New York the expense of furnishing, and those who receive them the expense of postage. A better document for the agitators could not go forth, than this same two-headed monster. If the bill should become a law before the report is circulated, the poor postmasters, through whose hands it shall pass, may consider it of little advantage to them that they are of the forty thousand "parasites of executive power," whose names are printed in the Blue Book. The chairman of the committee (Mr. CALHOUN) will

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by the talents and the principles of both speakers, with having demonstrated beyond all question that Congress has a right to abolish slavery in this District! Both the gentlemen belong to a party that can agree to disagree whenever and wherever it may be necessary. The object now is to keep the ball of contention moving between the North and the South; and no other course the two gentlemen can take will so eventually encourage the abolitionists on the one side, and arouse the slaveholder on the other. The people are aroused; the seeds of disunion are sown in new ground; an inveterate sectional distrust takes deeper root, and our congressional orators obtain a high reputation with all such as would make our constitution mean any thing or nothing. They are little less than "godlike" in their masterly dispositions of the constitution; an instrument so plain to common sense, before they had touched it, that he who runs may read and rightly understand!

The present agitation in the North is kept up by the application of money; it is a state of things altogether forced. Agents are hired, disguised in the character of ministers of the gospel, to preach abolition of slavery where slavery does not exist; and presses are kept in constant employment to scatter abolition publications through the country. Deny the right of petition to the misguided men and women who are induced from no bad motive to petition for the abolition of slavery in the District of Columbia, and you do more to increase their numbers than will thousands of dollars paid to the emissaries who traverse the country to distribute abolition tracts and to spread abolition doctrines. Continue to debate abolition in either branch of Congress, and you more effectually subserve the incendiary views of the members of abolition than any thing they can do for themselves. It may suit those who have been disappointed in all their political projects, to try what this subject of abolition will avail them. Such men will be likely to find the end, that the people have too strong attachment for that happy Union, to which we owe all our prosperity and happiness, to be torn from their property as every species and which may be blown across the land.

Mr. CALHOUN said the Senator from New Hampshire could not expect him to repeat what he had said. That Senator had stated himself in a position he occupied on that day to say very freely in assuming the name of Calhoun. He was persuaded that no Senator who in any respect for himself would say a false word or do a false thing. For himself he will soon condescend to notice the misstatements of the Globe, as to the general remarks of the Senator from New Hampshire. That Senator had been told of what purported to be his last day's speech, but he had not the time to examine it. But here was a chance to do so.

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relation to what that gentleman said of the abolition question in New Hampshire. It was found in a publication coming from one of the incendiary publications in that State, and he would lay it before the Senate, in order that it might judge for itself.

[Mr. C. here handed to the Secretary a newspaper containing an article impugning a statement made by Mr. PIERCE, of New Hampshire, in the House of Representatives, as to the number of abolitionists in his State, with severe strictures on the state of slavery in the South; said article stating that a great number of petitions in favor of the abolition of slavery in the District of Columbia would be forwarded to Congress from New Hampshire.]

The paper having been read,

Mr. HILL inquired the title of it.

[The SECRETARY answered, "The Herald of Freedom," published at Concord, New Hampshire.]

The petitions spoken of in that paper do not correctly represent the state of public feeling in New Hampshire. They were, so far as he had information, signed in most instances by women and children, many of whom were utterly ignorant of the intent of sending them here. No petition from that State had been yet presented. When they are presented, it may be in better time to magnify their importance. The Senator from South Carolina seems anxious to make the number large; in this anxiety he but verifies what he (Mr. H.) had stated to be the object of keeping up the excitement on the floor of Congress.

Mr. H. said he had nothing to say as to the standing of the Senator from South Carolina on this floor; he believed each and every Senator stood here on the ground of perfect equality. The taunting remark of the Senator relative to himself, applied not to him, but to his constituents, to the freemen who sent him here, and who were not to be disparaged for intelligence and patriotism by any invidious comparison with the constituents of the Senator from South Carolina. One thing he would say, and that was, that great as were the disgust and contempt felt by the Senator from South Carolina for him, they could not exceed the contempt and disgust felt for that Senator in the State of New Hampshire and in all the North.

Mr. HUBBARD (who was in the chair) asked the indulgence of the Senate to submit a few remarks. He felt as if an apology was due from him, to the Senate, for not having checked the reading of the paragraphs from the newspaper which had just been read by the Secretary. He was wholly ignorant of the contents of the paper, and could not have anticipated the purport of the article which the Senator from South Carolina had requested the Secretary to read. He understood the Senator to say that he wished the paper to be read, to show that the statement made by the Senator from New Hampshire, as to the feelings and sentiments of the people of that State upon the

subject of the abolition of slavery, were not correct. It certainly would have been out of order for any Senator to have alluded to the remarks made by a member of the House of Representatives in debate; and, in his judgment, it was equally out of order to permit paragraphs from a newspaper to be read in the Senate, which went to impugn the course of any member of the other House; and he should not have permitted the paper to have been read, without the direction of the Senate, if he had been aware of the character of the article.

Mr. CALHOUN said he was entitled to the floor, and objected to being interrupted by the Chair.

[Mr. HUBBARD replied, he had said all he wished to say. The Senator was entitled to the floor, and could proceed if he wished.]

Mr. CALHOUN continued. He knew nothing of the paper just presented. He had seen it for the first time that morning, and had presented it to the Senate for no other purpose than to show from another quarter the state of the abolition spirit in New Hampshire. He knew the gentleman (Mr. PIERCE) who was assailed in that paper, and was ready to bear testimony to his worth and high standing. He meant no disrespect to him. He had presented the paper because it was important that the real state of things should be known. It was due from gentlemen of the North to those of the South, to give correct information. He did not call those friends of the South who would disguise the state of things at the North. He believed as yet that the real number of abolitionists was small; but he also believed that the number of those who contemplated ultimate abolition was very great; and, that those ardent addresses in favor of liberty, so constantly made at the North, must have a deep effect on the young and rising generation. The spirit of abolition was not to be trifled with. It had had its bad effect on one of the most powerful Governments of Europe, and ended disastrously to its colonial possessions. It was commencing in the same manner here, and must be met at once with the most decided resistance. He repeated that he had the greatest respect for the member from New Hampshire mentioned in the paper just read; and he took pleasure in bearing testimony to his high standing and moral worth. He had only presented the paper to show the state of things in New Hampshire, and that the Senate might judge whether the abolition spirit was subsiding there.

Mr. BUCHANAN said he did not rise to enter into the debate at present. He wished merely to advert to a mistake, which seemed to be almost universal, in regard to the motion which he had made. He had not moved to reject this petition. His motion was to reject the prayer of the memorialists, and thus to decide promptly that slavery ought not to be abolished within the District of Columbia. He had made the strongest motion he could make, consistently with the right of petition, and the respect due

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to these petitioners. He might have moved a reference of the memorial to a committee; but he was prepared, at once, and without any report from a committee, to vote for rejecting the prayer of the petitioners. He believed that the Senate had not the power to refuse to receive the petition. He would, some time in the course of this debate, express his opinion at some length on this subject.

MONDAY, February 15.

Abolition of Slavery in the District of Columbia.

The Senate proceeded to consider the petition from the Society of Friends in Pennsylvania, praying for the abolition of slavery in the District of Columbia.

Mr. NILES said: Sir, I believe that the agitation of this subject here will promote agitation elsewhere, and tend to keep the public mind in an excited and feverish state.

And here I must be permitted to express some astonishment that gentlemen urge a discussion, whilst they avow that their object is to prevent agitation. When I hear that this is their object, asserted in the most solemn manner, I am bound to believe it. I trust the gentlemen are sincere; at the same time I must be permitted to say that the means by which they seek to attain their end appear to me very extraordinary. Was it not for descending from the gravity of the subject, I would say that it reminded me of a person I have heard of in my section of the country. A man who was very pugnacious and quarrelsome, who was constantly wrangling with his neighbors, yet always insisted that he loved peace; and so great was his anxiety for it, that he declared he would have peace with his neighbors if he had to fight for it. If I understand the views of some honorable gentlemen, they seem disposed to agitate this question for the very purpose of preventing agitation.

[Mr. CALHOUN wished to ask the gentleman whether he doubted the sincerity of his declaration, when he asserted that he was opposed to agitating the question.]

Mr. NILES. I do not doubt the gentleman's sincerity, when he so solemnly declares that he is opposed to agitating the abolition question here; yet I must claim the right to make such inferences from the course and the acts of that gentleman and his friends as I think they authorize.

Sir, I hope, most sincerely hope, there is no disposition anywhere in the North or in the South to connect this exciting subject with the party politics of the day. That there is no such intention here we are fully assured. But is there no such intention elsewhere? Sir, I am sorry to say that I fear there is. I cannot shut my eyes to occurrences of general notoriety; I cannot resist the evidence of my senses. I fear there is a spirit of mischief at work in a

certain quarter at the South as well as the North: it is, I hope, in both sections, confined to a small number of individuals.

It is a fact of general notoriety that there is a press in this city, the one to which the Senator from New Hampshire referred, professedly devoted to the interests of a certain party at the South, which has long labored, with a zeal and perseverance worthy of a better cause, to agitate the public mind on the slave question, whilst it has sought to alarm the South by the grossest misrepresentations of public sentiment at the North; by magnifying the number and influence of the abolitionists; by representing them as connected with a political party, in the face of the most notorious facts, it has endeavored to encourage the abolitionists to persevere in their mischievous designs. There are also presses at the South devoted to the same party, which have pursued a similar course. Whilst these mischievous vehicles have professed the utmost abhorrence of the designs of the Northern abolitionists, and to feel the greatest alarm at the tendency of their incendiary publications, they have at the same time given a circulation through their own papers to the very worst of these publications, under a pretence of exhibiting their enormities. These papers have been circulated in the slave States, and are supported by a certain party in that section of the Union. It has been asserted by the honorable Senator from South Carolina, that he has no fears from the circulation of the tracts and other publications of the abolition societies at the South; that such is the state of things there, it is impossible they should be circulated. In this, I presume, the Senator is correct; and it is therefore fair to conclude that the principal circulation which these mischievous publications have received in the slave States has been through the columns of political papers professing to apprehend the greatest danger from the movements of the Northern abolitionists, and to feel the greatest abhorrence of their publications. How is this inconsistent and absurd conduct to be accounted for, except by supposing that there are agitators at the South who are attempting to create an excitement on the question of slavery for political purposes? These same vehicles have been urging on the South the most dangerous and preposterous measures, as being necessary for the security of the slaveholding States; measures which, if not revolutionary in their character, have an obvious tendency to such results.

Sir, if there are such mischievous agents at the South, who are seeking to build up a sectional party, by appealing to the fears of the people in the slave States, and misrepresenting public sentiment at the North, they are more execrable and more dangerous than the Northern abolitionists. Sir, a Southern convention has been advocated by these men. And what can be the design of such a convention, but to increase the existing excitement, to irritate the public sensibility, and to blow the enkindling

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flame into a consuming fire? Can such a measure spring from sober and discreet counsels? Can it be called for to devise measures for the protection of their interests exposed by the mad schemes of the abolitionists? I think no intelligent and candid man will maintain this.

Mr. NILES then considered the general state of public sentiment in Connecticut, concluding with his objections to the motion.

He was followed by Mr. WALL, against the motion, and Mr. BLACK in favor.

MONDAY, February 22.

ROBERT J. WALKER, Senator elect from the State of Mississippi, appeared, was qualified, and took his seat.

Relations with France.

A Message and documents were received from the President of the United States, by the hands of Mr. DONELSON, his private Secretary, viz. :

To the Senate and House of Representatives :

I transmit, herewith, to Congress, copies of the correspondence between the Secretary of State, and the chargé d'affaires of his Britannic Majesty, relative to the mediation of Great Britain in our disagreement with France, and to the determination of the French Government to execute the treaty of indemnification, without further delay, on the application for payment by the agent of the United States.

The grounds upon which the mediation was accepted will be found fully developed in the correspondence. On the part of France the mediation had been publicly accepted before the offer of it could be received here. Whilst each of the two Governments has thus discovered a just solicitude to resort to all honorable means of adjusting amicably the controversy between them, it is a matter of congratulation that the mediation has been rendered unnecessary. Under such circumstances, the anticipation may be confidently indulged that the disagreement between the United States and France will not have produced more than a temporary estrangement. The healing effects of time, a just consideration of the powerful motives for a cordial good understanding between the two nations, the strong inducements each has to respect and esteem the other, will no doubt soon obliterate from their remembrance all traces of that disagreement.

Of the elevated and disinterested part the Government of Great Britain has acted, and was prepared to act, I have already had occasion to express my high sense. Universal respect, and the consciousness of meriting it, are with Governments, as with men, the just rewards of those who faithfully exert their power to preserve peace, restore harmony, and perpetuate good will. * * * * *

ANDREW JACKSON.

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The Message and documents were ordered to lie on the table, and be printed; and, on the motion of Mr. BUCHANAN, 5,000 extra copies were ordered.

MONDAY, February 29.

Resignation of Mr. Tyler.

The following letter was received, and laid before the Senate, by the Chair :

WASHINGTON, February 29, 1836.

SIR: I beg leave through you to inform the Senate that I have, on this day, resigned into the hands of the General Assembly of Virginia, for reasons fully made known to it, my seat in the Senate of the United States, as a Senator from that State. This announcement is now made, so as to enable the Senate, at its earliest pleasure, to fill such vacancies in the several committees as may be created by my resignation.

In taking leave of the body over which you preside, I should be faithless to the feelings of my heart if I did not frankly confess that I do so with no ordinary emotions. I look to the body itself as the representative of those federative principles of our system, to preserve which unimpaired has been the unceasing object of my public life. I separate from many with whom I have been associated for years, and part with friends whose recollection I shall cherish to the close of my life. These are sacrifices which it gives me pain to make. Be pleased to assure the Senate that I carry with me, into retirement, sentiments of respect towards its members; and that, in bidding them adieu, I extend to each and all my best wishes for their health, happiness, and long life.

I have the honor to be, sir, your most obedient servant,

JOHN TYLER.

Hon. Mr. VAN BUREN.

Abolition of Slavery in the District of Columbia.

The Senate proceeded to consider the petition of the Friends assembled at Philadelphia, praying for the abolition of slavery in the District of Columbia.

Mr. KING, of Georgia, thought it remarkable that his southern friends, who were opposed to him, seemed, by their arguments, to have lost sight of the very nature of our institutions, and especially of the essential distinction between republican and despotic Governments.

One of the most difficult subjects, in the whole science of government, was that of reconciling the peace of the community and the safety of established institutions, with the rights and liberties of individuals. Practically and theoretically it had divided the world more or less in all ages, but he had thought that it was not now a debatable question with the people of the United States. He considered it settled by the very form of our Government and institutions; for it was in the establishment of the form of Government that this question was usually considered and settled. The Government of our choice (Mr. K. said) was purely republican. It was based on popular opinion, which was known to be mutable: the freedom of that opinion was secured, as was also a free and unobstructed intercourse between Government, the agent, and the people, the constituent power. The opposite form of Government

(said Mr. K.) assumes that Government, when once established, is always right; that it is based on principles unchangeable; its acts infallible; and the Government is to be guarded, if necessary, by its own organized force, denying any voice to the citizen for whose good it was established. It was strange (Mr. K. said) to see gentlemen, by their arguments, actually sustaining the latter in opposition to the former system of Government.

There is no good without alloy. The privileges allowed to the citizen under a free constitution may be, and are, as in this case, very often grossly abused, the community troubled, and established institutions endangered. But the people of the United States have determined that these abuses are rather to be combated by reason and patriotic discretion, than that the freedom out of which they grow should be denied. In other words, they prefer the enjoyment of a rational liberty at the price of vigilance, and at the risk of occasional trouble, by the errors of misguided or bad citizens, to that repose which is enjoyed in the sleep of despotism.

However unpatriotic, then, these petitioners may be, however deluded, however mischievous in every sense, and however we may reprobate their conduct, they are still citizens of the United States. It was acknowledged that these memorialists were highly reputable and peaceful citizens, as those belonging to the Society of Friends usually are. However this might be, they were certainly citizens, submitting to the operation of the Government, and contributing to its support, and must, under its theory, be allowed the same rights as other citizens. They must be allowed, like other citizens, to petition the Government, the Government having a perfect right to reject their prayers after receiving their petitions. The simple right of petition was the most harmless and inoffensive of all possible rights, if it be properly treated. It enforced nothing and effected nothing but what Government thought proper to yield to it. The peaceable exercise of the right, however idly employed, could rarely be productive of mischief, though it might sometimes be evidence of mischievous intentions. The greatest danger was in imprudently and unnecessarily resisting it. All history was full of the most warning instances, in which the most worthless men and the most worthless principles had been elevated to unmerited consequence, by opportunities incautiously given them of throwing themselves into the breaches of a violated constitution.

He had been asked if he would receive a petition to abolish slavery in Georgia? This was a strong and improbable case; but he had answered, and would still answer, that he should feel bound to do so, and would then treat it with that contempt which so extravagant a proposition would deserve. Mr. K. thought we had no right to refuse to receive a petition, if made by a citizen of the United States, and touching a matter that concerned him as such.

These he thought the only essential requisites to entitle the petition to a reception. It must be signed by citizens, and touching their interests as citizens. We could not be embarrassed by petitions to relieve the Ryots of the East Indies from the oppressions of the Zemindars, or from the heavy exactions of the East India Company. Petitions for such a purpose might be refused, and gentlemen had said that this memorial might be refused on the same principles. He thought, himself, that they were meddling with a matter that should not concern them; and would strongly recommend to them to attend to their own business, and allow the people of the District to attend to theirs. But still, it was insisted that the District of Columbia was a national Territory, and under national jurisdiction; that the representatives of the people of the District were the representatives of the people of the United States; that the public buildings, and a vast amount of public property, in which they have a common interest, are located here; that the District is governed, to some extent, at the cost of the nation; in short, that there is that kind of relation between the people of the District and the people of the United States, as citizens of the same nation, which gives them an interest in the subject of their memorials. However light this reasoning, it was difficult, on principle, to get round it; and he thought, at any rate, we should not settle this question on nice distinctions, perhaps convincing to ourselves, but to nobody else.

But, (said Mr. K.,) waiving this objection, as seems to have been generally done, and how do gentlemen get round the constitutional objection of their motion? Why, they say they do not propose "to pass a law" to abridge the right of petition, and, therefore, do not propose to do any thing which the terms of the constitution forbid. He begged that his southern friends would reason on this as they would reason on other subjects; that they would shake off momentary influences, and employ their reasoning faculties for the discovery of truth. If they would only do this, they could not disagree with him for a moment, for they must instantly discover that their answer was a palpable evasion of the constitution itself. Mr. K. called for and read the first amendment, as follows: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech or of the press; or the right of the people peaceably to assemble and petition the Government for a redress of grievances."

Congress, under this article, can pass no law to "abridge" the right of the people to petition the Government. A modern commentator on the Constitution, of some note and much ability, in noticing this part of the article, dismissed it with the remark that it was totally unnecessary. This is obvious to every one who will consider for a moment the relation between a

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free people and the Government of their own choice. The privilege belonged (said Mr. K.) to the form of government, was united with it, and inseparable from it. It as clearly belonged to the people on the formation of the Government, as did the right to use the English language without any constitutional provision for that purpose; and (said Mr. K.) if gentlemen will only look at the constitution, and not evade it, they will see that the right was not acquired by the constitution, but only secured by it. The right, as a pre-existing one, was expressly recognized by the language of the constitution itself. What was the language applicable to the question before the Senate? It prevented Congress from passing any law "abridging the right of the people to petition the Government," &c.

Was not here a plain and express recognition of the pre-existing right? "Abridge" what? His friend from Carolina was a logician as well as a statesman, and he would ask him how the constitution could provide against the "abridgment" of a right which it did not acknowledge to exist? Could we abridge a nonentity? Could we take any thing from nothing? Could we add securities where there was nothing to secure? Certainly not. As a thousand naughts added will make nothing, so a cipher cannot be reduced. The right, then, belonged to the people, as inseparably incident to their form of government—was acknowledged to exist by the language of the constitution, and was guardedly secured by the provisions of that instrument. Yes, (said Mr. K.) secured against the united legislative power of the whole Government; and yet gentlemen propose unceremoniously to defeat it by a simple motion in one branch of the Legislature. He would not dwell longer upon this branch of the subject. He had already said more than was necessary. A proposition so extraordinary could only claim attention from its respectable paternity: certainly not as a fair subject of argument or discussion.

Mr. K. said it was perfectly clear that the people of the United States intended to secure a free intercourse between the people and their Government, and especially to place beyond doubt the right of petition.

That Congress would be troubled with many petitions it could not grant, and would occasionally have submitted to it propositions foolish and extravagant, was a foreseen incident of the right, and one that could not be avoided without assuming the power to deny the right altogether. The fact of sending a petitioner here for any purpose, proved that the petitioner believed he had a right to ask it, and that Congress had a right to grant it. We had only to receive the petition, look into it, decide on the right to relief, and act accordingly. No man ever was convinced of his error by refusing to hear him.

Man, he said, was a social and sympathetic being. He was always pleased and flattered by a coincidence of opinion; and agreeing in

one measure of primary importance, men are more readily prepared for agreement in every thing else. On the other hand, if they believe others extravagantly wrong upon one fundamental principle, they easily believe them wrong in their opinions upon every other; and, not agreeing in that, they will agree in nothing. Without referring with any disrespect to a doctrine in which he did not agree, he could cite his southern friends to the reorganization of parties at the South on the doctrine of nullification, as a practical illustration of the truth of this position. Thousands of intelligent men, who, in politics, formerly agreed in every thing, now agreed in nothing, because they did not agree upon the doctrine of nullification; and, on the other hand, thousands, who formerly agreed in nothing, now agree in every thing, because they do agree in that doctrine. The history of parties would prove the same results in similar cases in all time past, and the same results would follow similar causes in all time to come until the nature and constitution of man should be essentially changed.

TUESDAY, March 1.

Abolition of Slavery in the District of Columbia.

The Senate proceeded to consider the petition of the Society of Friends, praying for the abolition of slavery.

The question being on the motion of Mr. CALHOUN, that the petition be not received,

Mr. PRENTISS said: The petitions which have been presented here do not ask any interference, or assert any power in Congress to interfere, with slavery in the States. They are confined to slavery in this District. They complain of its existence here as a public evil, and ask the interposition of Congress to redress the grievance. The Senator from South Carolina (Mr. CALHOUN) has moved that the petitions be not received. The Senator from Pennsylvania (Mr. BUCHANAN) proposes that the prayer of the petitions be at once rejected.

Sir, I cannot agree to either of these motions. They differ, to be sure, in point of form, but the effect of both, it appears to me, is substantially the same. The first in order, the one now before the Senate, denies, in terms, the right to petition at all on the subject. The other, it is true, does not, in form, deny the right; but while it professes to admit the right, it proposes to reject the prayer of the petitions immediately, without a hearing, and without consideration. They are both essentially preliminary motions, precluding alike the usual reference and examination into the merits of the petitions; and, in my judgment, they both, in effect, abridge the right secured by the constitution; or, more properly speaking, the right recognized by the constitution as a pre-existing right—a right original and inherent in the people. If we can make no law abridging the

right to petition, we surely can neither right-fully refuse to receive a petition, nor reject it *instantly*, on its reception, without a hearing, without an inquiry into the subject-matter.

The distinction between rejecting the petition, and rejecting the prayer of the petition, immediately on its being received, which is the motion proposed by the Senator from Pennsylvania, is too refined and abstract, in my apprehension, for a subject of such common and universal interest to the people, as the privilege and right to petition. The distinction, I must repeat, is, to my mind, unimportant, and exists rather in form than in substance. The character of the motion is not altered, or at all varied, by the circumstance that the motion admits of discussion. Discussion may be had on almost any and every preliminary motion. Discussion, free and liberal discussion, has been had on the motion not to receive. That motion is still pending; and if discussion is all that is to be looked to, every object has been attained, and gentlemen may as well vote for that motion at once. The disposition proposed to be given to the petition, after it shall be received, is equally summary, denying, as it does, investigation and consideration in the accustomed forms of proceeding; and though it may be a formal and technical compliance with the constitution, it is, after all, to every practical and essential purpose, equivalent to a rejection of the petition itself. To receive the petition with the express view and for no other purpose than immediately to proceed and reject the prayer of it, is treating the petition no better, except in mere matter of ceremony, than to refuse to receive it at all. If we are bound to receive, we are bound to hear and consider; and an abrupt and premature rejection of the prayer of the petition, if not a denial of the right to petition, is a denial of every thing belonging to the right which is of any importance.

When petitions are decorous in their language, and contain nothing which can be justly deemed intentionally offensive; when they come from persons competent to petition, and treat of subjects upon which it is competent for Congress to act, I hold that we are bound to receive them, and give them a respectful consideration. No petition, in my opinion, ought to be rejected, or can constitutionally be rejected and refused a hearing, on account of the nature of the subject of which it treats, unless the subject be obviously and unquestionably beyond the constitutional power of Congress. With this limitation of the right, it belongs, and must, from the very nature of the right, necessarily belong, exclusively to the petitioners themselves to judge of the subject-matter. If Congress can discriminate between subjects, and say that upon some subjects petitions may be received, but upon others they shall not be received, what, I ask, becomes of the right to petition? What is the right worth? It will be in vain, sir, that we ac-

knowledge the right, if we thus limit its extent, if we thus control its exercise.

Mr. WEBSTER expressed briefly his judgment as to the proper course to be taken with these petitions. He thought they ought to be received, referred, and considered. That was what was usually done with petitions on other subjects, and what had been uniformly done, heretofore, with petitions on this subject also.

Those who believed they had an undoubted right to petition, and that Congress had undoubted constitutional authority over the subjects to which their petitions related, would not be satisfied with a refusal to receive the petitions, nor with a formal reception of them, followed by an immediate vote rejecting their prayer. In parliamentary forms there was some difference between these two modes of proceeding, but it would be considered as little else than a difference in mere form. He thought the question must at some time be met, considered, and discussed. In this matter, as in others, Congress must stand on its reasons. It was in vain to attempt to shut the door against petitions, and expect in that way to avoid discussion. On the presentation of the first of these petitions, he had been of opinion that it ought to be referred to the proper committee. He was of that opinion still. The subject could not be stifled. It must be discussed, and he wished it should be discussed calmly, dispassionately, and fully, in all its branches, and all its bearings. To reject the prayer of a petition at once without reference or consideration, was not respectful; and in this case nothing could be possibly gained by going out of the usual course of respectful consideration.

Mr. FENNER said: Mr. President, I deeply regret the course which this discussion has taken. I have observed its progress with much pain, with a feeling of anxiety and depression which I find great difficulty in expressing. It has been mixed up with all those small topics of party and personal bitterness which, whether properly or not, enter so largely into the ordinary debates of the Senate, but which are altogether misplaced, and dangerous, when connected with the consideration of those deep and vital interests involved in any discussion of the institution of slavery. It is very desirable, as has been well suggested by the Senator from Massachusetts, that, if we must deliberate on this subject, we do so with all the calmness possible, and with a deliberate and combined effort to do what is best under the perilous circumstances which surround us, uninfluenced by the paltry purposes of party. In whatever temper you may come to it, the discussion is full of danger. The fact that you are deliberating on the subject of slavery, inspires my mind with the most solemn thoughts. No matter how it comes before you, no matter whether the questions be preliminary or collateral, you have no jurisdiction over it in any of

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its aspects. These doors should be closed against it; for you have no right to draw into question here an institution guaranteed by the constitution, and on which, in fact, the right of twenty-two Senators to a seat in this body is founded; and, emphatically, you have no right to assail, or to permit to be assailed, the domestic relations of a particular section of the country, which you are incapable of appreciating, of which you are necessarily ignorant, which the constitution puts beyond your reach, and which a fair courtesy, it would seem, should exempt from your discussion. It exacts some patience in a southern man to sit here and listen, day after day, to enumerations of the demoralizing effects of his household arrangements, considered in the abstract—to hear his condition of life lamented over, and to see the coolness with which it is proposed to admit petitioners who assail, and vilify, and pity him, on the ground that it would hurt their feelings if we do not listen to them. We sit here and hear all this, and more than this. We hear ourselves accused of being agitators, because we ask the question, Is it the pleasure of the Senate to hear those who thus assail us? As yet, Mr. President, the incendiaries are but at your door demanding admittance, and it is yet within your power to say to them that they shall not throw their burning brands upon this floor, or propagate the conflagration through this Government. Before you lend yourself to their unhallowed purposes, I wish to say a word or two upon the actual condition of the abolition question; for I greatly fear, from what has transpired here, that it is very insufficiently understood, and that the danger of the emergency is by no means estimated as it ought to be. God forbid that I should permit any matter of temporary interest or passion to enter into what I am about to tell you of the real dangers which environ us. My State has been assailed. Be it so. My peculiar principles have been denounced. I submit to it. *Sarcasms*, intended to be bitter, have been uttered against us. Let them pass. I will not permit myself to be disturbed by these things, or, by retorting them, throw any suspicion on the temper in which I solemnly warn both sections of this Union of the impending dangers, and exhort this Senate to do whatever becomes its wisdom and patriotism under the circumstances. Let us not shut our eyes, sir, on our condition. Some gentlemen have intimated that there is a purpose to get up a panic. No, no, sir, I have no such purpose. A panic on this subject is a disaster. The stake is too great to play for under a panic. In the presence of so much danger as I solemnly believe exists, I would rather steady every mind to the coldest contemplation of it, than endeavor to excite my own, or the feelings of others, by adventitious stimulants. If I over-estimate the magnitude of the dangers which threaten us, it is in spite of myself, against my wishes, and after the most deliberate consideration.

WEDNESDAY, March 2.

Abolition of Slavery in the District of Columbia.

The Senate proceeded to consider the petition of the Society of Friends in Pennsylvania, praying for the abolition of slavery in the District of Columbia.

The question being on the motion of Mr. CALHOUN, that the petition be not received,

Mr. BUCHANAN said: Let it once be understood that the sacred right of petition and the cause of the abolitionists must rise or must fall together, and the consequences may be fatal. I would, therefore, warn southern gentlemen to reflect seriously in what situation they place their friends to the North, by insisting that this petition shall not be received.

We have just as little right to interfere with slavery in the South as we have to touch the right of petition. Whence is this right derived? Can a republican Government exist without it? Man might as well attempt to exist without breathing the vital air. No Government, possessing any of the elements of liberty, has ever existed, or can ever exist, unless its citizens or subjects enjoy this right. From the very structure of your Government, from the very establishment of a Senate and House of Representatives, the right of petition naturally and necessarily resulted. A representative republic, established by the people, without the people having a right to make their wants and their wishes known to their servants, would be the most palpable absurdity. This right, even if it were not expressly sanctioned by the constitution, would result from its very nature. It could not be controlled by any action of Congress, or either branch of it. If the constitution had been silent upon the subject, the only consequence would be, that it would stand in the very front rank of those rights of the people which are expressly guaranteed to them by the ninth article of the amendments to that instrument, inserted from abundant but necessary caution. I shall read this article. It declares that "the enumeration in the constitution of certain rights shall not be construed to deny or disparage others retained by the people." It would, without any express provision, have stood in the same rank with the liberty of speech and of the press, and have been entirely beyond the control of the Government. It is a right which could not have been infringed without extinguishing the vital spirit of our institutions. If any had been so bold as to attempt to violate it, it would have been a conclusive argument to say to them that the constitution has given you no power over the right of petition, and you dare not touch it.

The Senator from South Carolina (Mr. CALHOUN) has justly denominated the amendments to the constitution as our bill of rights. The jealousy which the States entertained of federal power brought these amendments into existence. They supposed that, in future times, Congress might desire to extend the powers of this Gov-

ernment, and usurp rights which were not granted them by the people of the States. From a provident caution, they have, in express terms, denied to Congress every sort of control over religion, over the freedom of speech and of the press, and over the right of petition. The first article of the amendments declares that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances."

Now, sir, what is the first position taken by the Senator from South Carolina against receiving this memorial? I desire to quote him with perfect accuracy. He says that the constitution prohibits Congress from passing any law to abridge the right of petition; that to refuse to receive this petition would not be to pass any such law, and that, therefore, the constitution would not be violated by such a refusal.

Does not the Senator perceive that, if this doctrine can be maintained, the right of petition is gone forever? It is a mere empty name. The Senate would possess the power of controlling it at their will and pleasure. No matter what may be the prayer of any petition, no matter how just may be the grievances of the people demanding redress, we may refuse to hear their complaints, and inform them that this is one of our prerogatives; because, to refuse to receive their petition is not the passage of a law abridging their right to petition. How can the gentleman escape from this consequence? Is the Senate to be the arbiter? Are we to decide what the people may petition for, and what they shall not bring before us? Is the servant to dictate to the master? Such a construction can never be the true one.

The most striking feature of this argument is, that the very article of the constitution which was intended to guard the right of petition with the most jealous care is thus perverted from its original intention, and made the instrument of destroying this very right. What we cannot do by law, what is beyond the power of both Houses of Congress and the President, according to the gentleman's argument, the Senate can of itself accomplish. The Senate alone, if his argument be correct, may abridge the right of petition, acting in its separate capacity, though it could not, as one branch of the Legislature, consent to any law which would confer upon itself this power.

What is the true history and character of this article of the constitution? In the thirteenth year of the reign of that "royal scoundrel," Charles II., as the Senator from Virginia (Mr. LETCH) has justly denominated him, an act of Parliament was passed abridging the right of petition. It declared that "no petition to the King or either House of Parliament, for any alteration in church or state, shall be signed by above twenty persons, unless

the matter thereof be approved by three justices of the peace, or the major part of the grand jury in the county; and in London by the lord mayor, aldermen, and common council; nor shall any petition be presented by more than ten persons at a time." Each Senator will readily perceive that the right of petition was thus laid almost entirely prostrate at the feet of the Sovereign. The justices of the peace, and the sheriffs who selected the grand juries, were his creatures, appointed and removed at his pleasure. Out of the city of London, without their consent, no petition for an alteration in church or state could be signed by more than twenty individuals. At the revolution of 1688, the bill of rights guaranteed to English subjects the right of petitioning the King, but the courts of justice decided that it did not repeal the statute of the second Charles. This statute still remained in force at the adoption of the federal constitution. Such was the state of the law in that country, from which we have derived most of our institutions, when this amendment to the constitution was adopted.

Although the constitution, as it came from the hands of its framers, gave to Congress no power to touch the right of petition, yet some of the States to whom it was submitted for ratification, apprehending that the time might arrive when Congress would be disposed to act like the British Parliament, expressly withdrew the subject from our control. Not satisfied with the fact that no power over it had been granted by the constitution, they determined to prohibit us, in express terms, from ever exercising such a power. This is the true history of the first article of our bill of rights.

The very language of this amendment itself contains the strongest recognition of the right of petition. In the clearest terms, it presupposes its existence. How can you abridge a right which had no previous existence? On this question I deem the argument of my friend from Georgia (Mr. KING) conclusive. The amendment assumes that the people have the right to petition for the redress of grievances, and places it beyond the power of Congress to touch this sacred right. The truth is, that the authors of the amendment believed this to be a Government of such tremendous power, that it was necessary, in express terms, to withdraw from its grasp their most essential rights. The right of every citizen to worship his God according to the dictates of his own conscience, his right freely to speak and freely to print and publish his thoughts to the world, and his right to petition the Government for a redress of grievances, are placed entirely beyond the control of the Congress of the United States, or either of its branches. There may they ever remain! These fundamental principles of liberty are companions. They rest upon the same foundation. They must stand or must fall together. They will be maintained so long as American liberty shall endure.

The next argument advanced by the gentle-

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man is, that we are not bound to receive this petition, because to grant its prayer would be unconstitutional? In this argument I shall not touch the question, whether Congress possess the power to abolish slavery in the District of Columbia or not. Suppose they do not, can the gentleman maintain the position that we are authorized by the constitution to refuse to receive a petition from the people, because we may deem the object of it unconstitutional. Whence is any such restriction of the right of petition derived? Who gave it to us? Is it to be found in the constitution? The people are not constitutional lawyers; but they feel oppression, and know when they are aggrieved. They present their complaints to us in the form of a petition. I ask, by what authority can we refuse to receive it? They have a right to spread their wishes and their wants before us, and to ask for redress. We are bound respectfully to consider their request; and the best answer which we can give them is, that they have not conferred upon us the power, under the Constitution of the United States, to grant them the relief which they desire. On any other principle we may first decide that we have no power over a particular subject, and then refuse to hear the petitions of the people in relation to it. We would thus place the constitutional right of our constituents to petition at the mercy of our own discretion.

The proposition is almost too plain for argument, that if the people have a constitutional right to petition, a corresponding duty is imposed upon us to receive their petitions. From the very nature of things, rights and duties are reciprocal. The human mind cannot conceive of the one without the other. They are relative terms. If the people have a right to command, it is the duty of their servants to obey. If I have a right to a sum of money, it is the duty of my debtor to pay it to me. If the people have a right to petition their representatives, it is our duty to receive their petition.

This question was solemnly determined by the Senate more than thirty years ago. Neither before nor since that time, so far as I can learn, has the general right of petition ever been called in question, until the motion now under consideration was made by the Senator from South Carolina. Of course I do not speak of cases embraced within the exception which I have just stated. No Senator has ever contended that this is one of them. To prove my position, I shall read an extract from our journals:

On Monday, the 21st January, 1805, "Mr. Logan presented a petition, signed Thomas Morris, clerk, in behalf of the meeting of the representatives of the people called Quakers, in Pennsylvania, New Jersey, &c., stating that the petitioners, from a sense of religious duty, had again come forward to plead the cause of their oppressed and degraded fellow-men of the African race; and on the question, "Shall this petition be received?" it passed in the affirmative: yeas 19, nays 9.

"The yeas and nays being required by one-fifth of the Senators present—

"Those who voted in the affirmative are,

"Messrs. Adams, Massachusetts; Alcott, New Hampshire; Bayard, Delaware; Brown, Kentucky; Condict, New Jersey; Franklin, North Carolina; Hillhouse, Connecticut; Howland, Rhode Island; Logan, Pennsylvania; Maclay, Pennsylvania; Mitchell, New York; Pickering, Massachusetts; Plumer, New Hampshire; Smith, Ohio; Smith, Vermont; Stone, North Carolina; Sumpter, South Carolina; White, Delaware; Worthington, Ohio.

"And those who voted in the negative are,

"Messrs. Anderson, Tennessee; Baldwin, Georgia; Bradley, Vermont; Cocke, Tennessee; Jackson, Georgia; Moore, Virginia; Smith, Maryland; Smith, New York; Wright, Maryland.

"So the petition was read."

The Senate will perceive that I have added to the names of the members of the Senate that of the States which they each represented. The Senator from South Carolina will see that, among those who, upon this occasion, sustained the right of petition, there is found the name of General Sumpter, his distinguished predecessor. I wish him, also, to observe that but seven Senators from the slaveholding States voted against receiving the petition; although it was of a character well calculated to excite their hostile and jealous feelings.

The present, sir, is a real controversy between liberty and power. In my humble judgment, it is far the most important question which has been before the Senate since I have had the honor of occupying a seat in this body. It is a contest between those, however unintentionally, who desire to abridge the right of the people, in asking their servants for a redress of grievances, and those who desire to leave it, as the constitution left it, free as the air. Petitions ought ever to find their way into the Senate without impediment; and I trust that the decision upon this question will result in the establishment of one of the dearest rights which a free people can enjoy.

Now, sir, why should the Senator from South Carolina urge the motion which he has made? I wish I could persuade him to withdraw it. We of the North honestly believe, and I feel confident he will not doubt our sincerity, that we cannot vote for his motion without violating our duty to God and to the country—without disregarding the oath which we have sworn to support the constitution. This is not the condition of those who advocate his motion. It is not pretended that the constitution imposes any obligation upon them to vote for this motion. With them it is a question of mere expediency; with us, one of constitutional duty. I ask gentlemen of the South, for their own sake, as well as for that of their friends in the North, to vote against this motion. It will place us all in a false position, where neither their sentiments nor ours will be properly understood.

I shall now proceed to defend my own motion from the attacks which have been made

upon it. It has been equally opposed by both extremes. I have not found, upon the present occasion, the maxim to be true, that "*in medio tutissimus ibis*." The Senator from Louisiana, (Mr. PORTER,) and the Senator from Massachusetts, (Mr. WEBSTER,) seem both to believe that little, if any, difference exists between the refusal to receive a petition, and the rejection of its prayer after it has been received. Indeed, the gentleman from Louisiana, whom I am happy to call my friend, says he can see no difference at all between these motions. At the moment I heard this remark, I was inclined to believe that it proceeded from that confusion of ideas which sometimes exists in the clearest heads of that country from which he derives his origin, and from which I am myself proud to be descended. What, sir, no difference between refusing to receive a request at all, and actually receiving it and considering it respectfully, and afterwards deciding, without delay, that it is not in your power to grant it! There is no man in the country, acquainted with the meaning of the plainest words in the English language, who will not recognize the distinction in a moment.

If a constituent of that gentleman should present to him a written request, and he should tell him to go about his business, and take his paper with him, that he would not have any thing to do with him or it: this would be to refuse to receive the petition.

On the other hand, if the gentleman should receive this written request of his constituent, read it over carefully and respectfully, and file it away among his papers, but, finding it was of an unreasonable or dangerous character, he should inform him, without taking further time to reflect upon it, that the case was a plain one, and that he could not, consistently with what he believed to be his duty, grant the request: this would be to reject the prayer of the petition.

There is as much difference between the two cases, as there would be between kicking a man down stairs who attempted to enter your house, and receiving him politely, examining his request, and then refusing to comply with it.

In making the motion now before the Senate, I intended to adopt as strong a measure as I could, consistently with the right of petition and a proper respect for the petitioners. I am the last man in the world who would, intentionally, treat these respectable constituents of my own with disrespect. I know them well, and prize them highly. On a former occasion I did ample justice to their character. I deny that they are abolitionists. I cannot, however, conceive how any person could have supposed that it was disrespectful to them to refuse to grant their prayer in the first instance, and not disrespectful to refuse to grant it after their memorial had been referred to a committee. In the first case their memorial will be received by the Senate, and will be filed among the records of the country. That it has already been

the subject of sufficient deliberation and debate, that it has already occupied a due portion of the time of the Senate, cannot be doubted or denied. Every one acquainted with the proceedings of courts of justice must know that often, very often, when petitions are presented to them, the request is refused without any delay. This is always done in a plain case, by a competent judge. And yet, who ever heard that this was treating the petitioner with disrespect? In order to be respectful to these memorialists, must we go through the unmeaning form, in this case, of referring the memorial to a committee, and pretending to deliberate, when we are now all fully prepared to decide?

I repeat, too, that I intended to make as strong a motion in this case as the circumstances would justify. It is necessary that we should use every constitutional effort to suppress the agitation which now disturbs the land. This is necessary, as much for the happiness and future prospects of the slave as for the security of the master. Before this storm began to rage, the laws in regard to slaves had been greatly ameliorated by the slaveholding States; they enjoyed many privileges which were unknown in former times. In some of the slave States prospective and gradual emancipations was publicly and seriously discussed. But now, thanks to the efforts of the abolitionists, the slaves have been deprived of these privileges; and, whilst the integrity of the Union is endangered, their prospect of final emancipation is delayed to an indefinite period. To leave this question where the constitution has left it, to the slaveholding States themselves, is equally dictated by a humane regard for the slaves as well as for their masters.

Mr. WALKER said: We are met in the threshold of this discussion by a preliminary question, which is honestly believed by many of all parties from the South as well as the North, to interpose a constitutional barrier against the rejection of this petition. We are told that to reject the petition is to abridge the right of petition and to violate the constitution. With my oath to support that sacred instrument yet fresh upon my lips and green in my memory, did I suppose that a constitutional obligation was imposed upon us to receive all petitions addressed and presented to us, whatever their language, character, or tendency might be, my vote should be given against the rejection of this memorial. The rights of my constituents are infinitely dear to me, but they do not desire to secure those rights by trampling down the constitution of the Union.

The first article of the amendments to the constitution is relied upon as denying to us all power to reject this petition. That article is as follows: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech or of the press; or the right of the people peaceably to assemble and to petition

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the Government for a redress of grievances." What is it on this subject that Congress cannot do? It can "make no law" "abridging" "the right of the people peaceably to assemble and to petition the Government for a redress of grievances." Do we propose to abridge this right? Do we attempt to say to the people, either by a law or otherwise, that they shall not peaceably assemble and petition the Government for a redress of grievances? Do we say they shall not assemble, or that, when assembled, they shall not petition? Or even that, when the petition is subscribed, they shall not present it for the action of this body? We say none of these things. Notwithstanding our refusal to receive this petition, the people may again assemble, again subscribe and present here another and another petition, precisely similar to that now before us; and this right we do not undertake to abridge or question. But when the people have fully exercised and exhausted the right of petition, as secured by the constitution, and presented that petition here, then our rights begin, and we may, in determining the order of our own proceedings, reject the whole petition; or, what is nearly the same thing, reject the prayer, which is the vital part of it, or refer the petition, or postpone indefinitely the consideration of it, or lay it upon the table, to sleep the sleep of death, and the constitutional rights of the people are not infringed by adopting any of these modes. I am not willing to be accused of violating the sacred right of petition; my veneration of that right is as great as that of any Senator upon this floor; but this right is not assailed or invaded by refusing to receive the petition, but remains in its full force, unimpaired and undiminished, subject to be exercised in all its extent, whenever the people resolve to petition for a redress of grievances. I repeat it, we do not say that the people shall not assemble—that they shall not petition—that they shall not present their petitions here—we do not, in any manner, limit the action of the petitioners, either by the adoption of any law or rule on this subject; we do not even say that this petition shall not be read or discussed; but when all this has taken place, we may refuse to receive the petition, either because its language is offensive, or because it asks us to violate our oaths and the constitution, or because it requests us to disturb the harmony of the Union, or for any other cause the Senate may deem sufficient, for the constitution is silent upon this topic, leaving it where it ought to be left, to the sound, well-regulated discretion of the Senate on this subject; and as we cannot and do not undertake to limit or prescribe the manner in which the people shall exercise the right of petition, so neither can we permit these or any other petitioners to usurp the power of this body, and dictate the manner in which we shall act upon their petition. Nor is there any thing clearer to my mind, than that to compel the Senate to

receive all petitions, however wild or visionary they might be, or destructive of the Union or of the constitution, would be to interpolate in that instrument a most dangerous provision. Suppose the Senate refuse to grant the prayer of these petitioners, and that another and another petition for the same purpose is presented from day to day, and week to week, must we forever continue to receive these petitions, and render the Senate a registering tribunal for abolition memorials, denouncing the institutions and people of the South? My constituents have rights on this floor, as well as these petitioners; and I shall not, to gratify the blind fanaticism or gangrened malice of these or any other abolitionists, put in jeopardy all that is dear to the people of Mississippi, by consenting to receive these or any other petitions of a similar character.

It is said that to reject a petition is to render the right of petition an empty form. As well might it be contended that to reject the prayer, which is the vital part of the petition, would render nugatory the right of petition, as to say that this right is invaded by rejecting the petition itself. To reject the prayer is to deprive the memorial of all vitality—to make it a dead letter, an empty sound, a mere preambulatory—nothing. A petition without a prayer is an absurdity—it is not a petition; and if we may reject a part of the petition, the only part which makes it a petition, why may we not reject the whole petition? A petition is a written prayer for us to do or not to do a certain act; and if we reject the prayer, we do substantially reject the petition itself. If the rejection of these petitions could induce the abolitionists to refrain from sending here any further similar memorials, it should constitute a strong reason in favor of adopting this motion. It is because I wish, not by the enactment of any law, or the adoption of any rule abridging the right of petition, but by the moral influence of our votes and opinions, to arrest the transmission of abolition memorials to this House, that I vote against receiving the petition. The friends of both motions are equally opposed to the abolitionists; both desire to put out these balls of flame, which are kindled at the North in the fires of fanaticism, and blown into tenfold fury here, in the very act of endeavoring to extinguish them.

There is another reason influencing me to oppose the reception of this petition. Why receive the petition, when the Government has no constitutional power to grant the redress requested? Would not the reception of the petition, under such circumstances, be an idle ceremony? Congress has no constitutional power to abolish slavery in the District of Columbia. It is said, Congress has a grant of "exclusive legislation" over this District. So has Congress, under the same clause of the constitution, "like authority" over "all places" purchased from any of the States; and upon

the same principles, Congress might therefore abolish slavery in all those places purchased in the slaveholding States, or, what is still stronger, introduce and establish slavery in all those places purchased from the non-slaveholding States. But this is a grant of "exclusive," not of unlimited, power of legislation; a grant only of legislative power over the District, to the exclusion, in "all cases whatsoever," of any concurrent jurisdiction. There are, however, other clauses in the constitution which limit and restrict this power as regards this District, especially the provision which forbids Congress to deprive any citizen of his "property" "without due process of law;" and further declares, "nor shall private property be taken for public use without just compensation." But this petition proposes to take from the people of this District their slaves, which are their "private property," "without due process of law," "without compensation," and for no "public use," the only case in which private property can be taken, even with compensation; and that compensation, the Supreme Court of the Union has decided, must first be paid or tendered under the finding of a jury of the country. To liberate the slaves of this District, even with compensation, would be equally a violation of the constitution; for, to liberate them, is not to take them for the use of the public, by a transfer of property to the Government or its agents. Unless, then, this Government has the power, which none pretend, to purchase and hold slaves, to gratify the morbid sensibility of a few miserable fanatics, it can never, in any manner, constitutionally affect the institution of slavery in this District. Do not the people of this District live under the guarantees of the constitution? Or could Congress, by the mere passage of a law, take from the people of this District their lands, their lots, their houses, as well as their slaves? If Congress have such a power, the Government of this District is the very climax of despotism.

TUESDAY, March 3.

Territorial Internal Improvement—Railroad and Canal in the Territory of Florida.

On motion of Mr. KING, of Alabama, the Senate proceeded to consider the bill to authorize the East Florida Railroad Company to make a road through the public lands, now lying on the table.

Various amendments, proposed by Mr. DAVIS, having been adopted, the bill was ordered to be engrossed.

On motion of Mr. KING, of Alabama, the Senate proceeded to consider the bill to authorize the Pensacola and Perdido Canal Company to make a canal through the public lands, now lying on the table.

Mr. DAVIS moved various amendments to the bill, which were agreed to, and the bill was ordered to be engrossed.

Abolition of Slavery in the District of Columbia.

The Senate proceeded to the special order, being the petition of the Society of Friends in Philadelphia, praying for the abolition of slavery in the District of Columbia.

The question pending being on the motion of Mr. CALHOUN, that the petition be not received.

Mr. KING, of Alabama, said: The question before them was that raised by the Senator from South Carolina, (Mr. CALHOUN,) "Shall the memorial be received?" He should but consume the time of that body, if he attempted to add any thing to the able argument of his friend from Georgia, (Mr. KING,) so strongly and clearly enforced by his friend from Pennsylvania, (Mr. BUCHANAN,) on the constitutional principle involved. He should therefore leave the question, as it seemed to him, perfectly settled.

The right of petition was admitted on all hands to be one of the most sacred rights inherited from our ancestors. It was secured to us by the constitution—not granted, for it was inherent in the very nature of our Government, and was not to be set aside under any circumstances. Should they, therefore, to answer the purpose of putting an end to these abolition petitions, (and certainly, in the opinion of many, it would not have that effect,) should they give occasion to many well-meaning citizens to array themselves on the side of those in whose persons the right of petition might be violated, and to unite with them in the prosecution of an enterprise they would not otherwise have thought of? We should be cautious (said Mr. K.) how we give occasion to these abolitionists to shift the odium from themselves to a decision of the Senate. Even if he admitted the constitutionality of refusing to receive the memorial, he would hesitate long before he pursued a course calculated to produce unfavorable impressions in the minds of our fellow-citizens, simply on the ground of expediency. Since the commencement of the present Congress, those individuals associated together for the purpose of agitating the public mind, and disturbing the peace of the South, had increased beyond all calculation. They had their agents out everywhere, distributing their tracts and pamphlets, and were pouring out their treasure with a lavish hand, to subsidize presses, and circulate papers, for the purpose of operating on these very deliberations that were then going on; thus endeavoring to bring to bear on Congress the power of the abolition societies, and the influence of the presses which they had set up, with the acknowledged design of producing action here. Now, he would not undertake to say that the discussion which had taken place had had the effect of stimulating the exertions of these misguided men, but he felt that there was too much reason to fear that it had done so. If this was not the case, he would ask, why had the zealous efforts of these abolitionists heretofore failed in producing the effect they

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had intended? For it was undeniable that they had hitherto failed in producing such an effect; and it must have been because Congress did not give consequence to their memorials by a protracted discussion, but passed them by with silent contempt.

The reception of these memorials was so strongly impressed on his mind to be the only true policy, that he could not resist the obligations of duty which impelled him to urge the Senate to pursue that course. They had been told by the Senator from Mississippi, (Mr. BLACK,) that many of the State Legislatures had acted on such memorials, and had refused to receive them. But, said Mr. K., we have our own rule of action prescribed by the constitution, and are not to be governed by what has been done in the State Legislatures. The reception of petitions had been compared to the introduction of bills on leave; and they had been told by the gentleman from Mississippi that even here, in this body, they had refused permission to introduce bills in extraordinary cases. That was very true as regarded the introduction of bills; but the principle on which they had been refused did not apply to petitions. He recollected a case where a resolution which an honorable Senator from Missouri sought to introduce was thrown out, because a majority of the Senate did not approve of its principles. This was a resolution in opposition to the Bank of the United States, and was offered at a time of high party excitement, and when a majority in both Houses of Congress were known to be favorable to the bank. Did this preserve the bank? The result is known to all. In one word, then, he could not vote against receiving this memorial. He could not, because he did not believe that they could constitutionally refuse it; and he did not believe it would be good policy to create a sensation against them among those who valued, and correctly valued, the right of petition as one of their dearest privileges.

FRIDAY, March 4.

R. O. NICHOLAS, Senator from Louisiana, appeared, and took his seat.

Expunging Resolution.

Mr. BENTON remarked that he was under a pledge to the American people to bring forward a motion for expunging from the journals of the Senate certain resolutions which had passed that body. He had not made this motion up to the present time, because he thought it was a motion of that character requiring the Senate to be full when it was made. The Senate was not yet entirely full; there was still a vacancy, but it would probably be filled in the course of two weeks. He therefore thought proper now to give notice (though he was not called on by any rule of the Senate to give such notice) that, as soon as that vacancy was filled, he should

bring forward his motion to expunge the resolutions he had referred to.

MONDAY, March 7.

Abolition of Slavery in the District of Columbia.

The Senate proceeded to consider the petition of the Society of Friends of Philadelphia, praying for the abolition of slavery in the District of Columbia.

The question being on the motion of Mr. CALHOUN, that the petition be not received,

Mr. OUTHERS said: Of the two propositions before the Senate, he felt himself compelled to vote for that which was the strongest in opposition to the memorial. He had found no constitutional reasons for opposing this measure, no well-founded objections, under a proper construction of the constitution, to giving this vote such as his friends believed; it did not appear to him to be violating that part of the constitution which secured the right of the people peaceably to assemble and petition for a redress of grievances. The first step, with regard to the right of petition, it was not pretended had been prevented. The people had assembled without let or hindrance, and had petitioned. The question, then, was, how this vote would affect the second part of the right of petition, and how far the petition was for a redress of grievances. With respect to the latter, it was not pretended by any one that slavery in the District of Columbia was a grievance of which the petitioners had a right to complain; and as to the first, the petitioners had a hearing, and their petition had been fully discussed. The member who introduces a petition states the substance of it, and any member may demand that it shall be read. Then, what was denied to the petitioner? Was he indignantly refused a hearing? By no means. The motion applied not to the petitioners themselves, but to the substance of their petition.

You make (said Mr. C.) the most prompt and decided objection to the prayer of the petition which the rules of the body permit, and you do it with a due regard to the feelings of those who presented it. You say to them no more than a kind and indulgent parent has a right to say to his own child: that their request is so unreasonable that the granting of it would be productive of so much mischief to themselves, as well as to others, that it could not for a moment be listened to. Was this unkind, or language unbecoming a parent addressing his child? Your purpose (said Mr. C.) is to warn them, in the most decided terms, that to persevere would bring ruin on themselves, as well as produce the most fearful evils; and you entreat them to abandon a course destructive of the best interests of the political family, without producing the least good to themselves or to those for whom their sympathies were excited.

TUESDAY, March 8.

Abolition of Slavery in the District of Columbia.

The subject of the petition of the Friends of Philadelphia praying for the abolition of slavery in the District of Columbia, was resumed; the question being on the motion of Mr. CALHOUN, that the petition be not received.

Mr. GRUNDY differed from the Senator from South Carolina (Mr. CALHOUN) as to the manner of treating this petition. He should adopt and pursue the opinion acted upon by the Congress of the United States in 1790, and which had been substantially pursued from that period down to the present. Petitions similar to the present, and from the same society, had been presented to Congress at each session, and Congress had, at no time, refused to receive them; and a departure from the ordinary usage on this subject, he apprehended, might produce, rather than allay, excitement. It would be recollected that, by the Constitution of the United States, Congress is expressly prohibited from interfering with the slave trade, which might be carried on by the citizens of the different States for the space of twenty-one years; yet, in 1790, the Society of Quakers or Friends forwarded their petition to Congress, praying their interference upon that subject. This petition, although in direct opposition to the constitution, was received, and a motion was made to send it to a committee. This was opposed, and a proposition made to lay it upon the table. Those most opposed to the object of the petition sustained the latter proposition. Mr. Madison, of Virginia, a slaveholding State, advocated the reference to a committee, and used the argument which he would read to the Senate:

"Mr. Madison thought the question before the committee was not otherwise important than as gentlemen made it so by their serious opposition. Did they permit the commitment of the memorial as a matter of course, no notice would be taken of it out of doors. It could never be blown up into a decision of the question respecting the discouragement of the African slave trade, nor alarm the owners with an apprehension that the General Government were about to abolish slavery in all the Southern States. Such things are not contemplated by any gentleman. But, to appearance, they decide the question more against themselves than would be the case if it was determined on its real merits; because gentlemen may be disposed to vote for the commitment of the petition without any intention of supporting the prayer of it."

Mr. G. proceeded by remarking that every thing that Mr. Madison apprehended had been realized by the debate in which the Senate was engaged. Alarm had been produced by this discussion. The abolitionists had been encouraged by it, and were redoubling their efforts; whereas, had the petitions been received and laid on the table, or had they been received and referred to the Committee on the District of Columbia, as heretofore, at this time the country would have been in a state of tranquillity. The decision that is to take place upon this

motion may be a source of misapprehension to many citizens, who may infer that all, or at least some, of those who vote for the reception of the petition are favorable to its prayer, when, in fact, there is not one Senator here favorable to it.

WEDNESDAY, March 9.

Abolition of Slavery in the District of Columbia.

The Senate proceeded to consider the petition of the Society of Friends in Philadelphia, on the subject of the abolition of slavery in the District of Columbia.

The question being on the motion "that the petition be not received,"

Mr. CALHOUN said: If we may judge from what has been said, the mind of the Senate is fully made up on the subject of these petitions. With the exception of the two Senators from Vermont, all who have spoken have avowed their conviction, not only that they contain nothing requiring the action of the Senate, but that the petitions are highly mischievous, as tending to agitate and distract the country, and to endanger the Union itself. With these concessions, I may fairly ask, why should these petitions be received? Why receive, when we have made up our mind not to act? Why idly waste our time and lower our dignity in the useless ceremony of receiving to reject, as is proposed, should the petitions be received? Why finally receive what all acknowledge to be highly dangerous and mischievous? But one reason has been or can be assigned—that not to receive would be a violation of the right of petition, and, of course, that we are bound to receive, however objectionable and dangerous the petitions may be. If such be the fact there is an end to the question. As great as would be the advantage to the abolitionists, if we are bound to receive, if it would be a violation of the right of petition not to receive, we must acquiesce. On the other hand, if it shall be shown, not only that we are not bound to receive, but that to receive, on the ground on which it has been placed, would sacrifice the constitutional rights of this body, would yield to the abolitionists all they could hope at this time, and would surrender all the outworks by which the slaveholding States can defend their rights and property here, then a unanimous rejection of these petitions ought of right to follow.

The decision, then, of the question now before the Senate is reduced to the single point: are we bound to receive these petitions? or, to vary the form of the question, would it be a violation of the right of petition not to receive them?

When the ground was first taken that it would be a violation, I could scarcely persuade myself that those who took it were in earnest, so contrary was it to all my conceptions of the rights of this body and the provisions of the constitution; but, finding it so earnestly maintained, I have since carefully investigated the

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subject, and the result has been a confirmation of my first impression, and a conviction that the claim of right is without shadow of foundation. The question, I must say, has not been fairly met. Those opposed to the side which we support have discussed the question as if we denied the right of petition, when they could not but know that the true issue is not as to the existence of the right, which is acknowledged by all, but its extent and limits, which no one of our opponents had so much as attempted to ascertain. What they have declined doing, I undertake to perform.

There must be some point, all will agree, where the right of petition ends, and that of this body begins. Where is that point? I have examined this question carefully, and I assert boldly, without the least fear of refutation, that, stretched to the utmost, the right cannot be extended beyond the presentation of a petition, at which point the rights of this body commence. When a petition is presented, it is before the Senate. It must then be acted on. Some disposition must be made of it before the Senate can proceed to the consideration of any other subject. This no one will deny. With the action of the Senate its rights commence—rights secured by an express provision of the constitution, which vests each House with the right of regulating its own proceedings, that is, to determine, by fixed rules, the order and form of its action. To extend the right of petition beyond presentation is clearly to extend it beyond that point where the action of the Senate commences, and, as such, is a manifest violation of its constitutional rights. Here, then, we have the limits between the right of petition and the right of the Senate to regulate its proceedings clearly fixed, and so perfectly defined as not to admit of mistake, and, I would add, of controversy, had it not been questioned in this discussion.

If what I have asserted required confirmation, ample might be found in our rules, which embody the deliberate sense of the Senate on this point, from the commencement of the Government to this day. Among them the Senate has prescribed that of its proceedings on the presentation of petitions. It is contained in the 24th rule, which I ask the Secretary to read, with Mr. Jefferson's remarks in reference to it:

"Before any petition or memorial addressed to the Senate shall be received, and read at the table, whether the same shall be introduced by the President or a member, a brief statement of the contents of the petition or memorial shall verbally be made by the introducer."—Rule 24.

Mr. Jefferson's remarks:

"Regularly a motion for receiving it must be made and seconded, and a question put whether it shall be received; but a cry from the House of 'receive,' or even a silence, dispenses with the formality of the question."

Here we have a confirmation of all I have asserted. It clearly proves that when the

petition is presented the action of the Senate commences. The first act is to receive the petition. Received by whom? Not the Secretary, but the Senate. And how can it be received by the Senate but on a motion to receive, and a vote of a majority of the body? And Mr. Jefferson accordingly tells us that regularly such a motion must be made and seconded. On this question, then, the right of the Senate begins; and its right is as perfect and full to receive or reject as it is to adopt or reject any other question, in any subsequent stage of its proceedings. When I add that this rule was adopted as far back as the 19th of April, 1789, at the first session of the Senate, and that it has been retained, without alteration, in all the subsequent changes and modifications of the rules, we have the strongest evidence of the deliberate sense of this body in reference to the point under consideration.

The question was taken, "Shall the petition be received?" and it was decided in the affirmative—yeas 36, nays 10, as follows:

YEAS.—Messrs. Benton, Brown, Buchanan, Clay, Clayton, Crittenden, Davis, Ewing of Ohio, Ewing of Illinois, Goldsborough, Grundy, Hendricks, Hill, Hubbard, Kent, King of Alabama, King of Georgia, Knight, Linn, McKean, Morris, Naudain, Niles, Prentiss, Robbins, Robinson, Ruggles, Shepley, Southard, Swift, Tallmadge, Tipton, Tomlinson, Wall, Webster, Wright—36.

NAYS.—Messrs. Black, Calhoun, Cuthbert, Leigh, Moore, Nicholas, Porter, Preston, Walker, White—10.

FRIDAY, March 11.

Abolition of Slavery in the District of Columbia.

Mr. LEIGH said that, in pursuance of the promise which he yesterday made to the Senate to move to resume the consideration of the abolition petition at the earliest moment that he should have decided what course his duty required him to pursue in regard to the amendment which he yesterday offered to the motion for rejection, he now moved that the Senate take up that subject.

The motion having been agreed to,

Mr. LEIGH withdrew the amendment offered by him; and the question recurred on Mr. BUCHANAN's motion that the prayer of the petition be rejected.

The question being on the original motion of Mr. BUCHANAN, "that the prayer of the petition be rejected,"

A brief debate ensued, in which Mr. MCKEAN of Pennsylvania, Mr. CALHOUN, Mr. PRESTON, Mr. DAVIS of Massachusetts, Mr. PRESTON, and Mr. WALKER of Mississippi, took part.

The question was then taken on the motion to reject the prayer of the petition, and decided as follows:

YEAS.—Messrs. Benton, Black, Brown, Buchanan, Clay, Crittenden, Cuthbert, Ewing of Illinois, Ewing of Ohio, Goldsborough, Grundy, Hill, Hubbard, King

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of Alabama, King of Georgia, Leigh, Linn, McKean, Moore, Nicholas, Niles, Porter, Preston, Robbins, Robinson, Ruggles, Shepley, Tallmadge, Tipton, Tomlinson, Walker, Wall, White, Wright—34.

NAYS.—Messrs. Davis, Hendricks, Knight, Prentiss, Swift, Webster—6.

So the prayer of the petition was rejected.

After this decision, Mr. WEBSTER gave notice that he had in his hand several similar petitions, which he had forborne to present till this from Pennsylvania should be disposed of, and that he should now, on an early occasion, present them, and move to dispose of them in the way in which it had been his opinion from the first that all such petitions should have been treated; that is, to refer them to the committee for inquiry and consideration.

MONDAY, March 14.

Mr. LEIGH presented the credentials of W. O. RIVES, elected a Senator from Virginia, in the room of JOHN TYLER, resigned.

Mr. RIVES was then qualified, and took his seat.*

WEDNESDAY, March 16.

Abolition Petitions.

Mr. WEBSTER rose to present several petitions; and addressed the Senate as follows:

Agreeably to notice, I offer sundry petitions on the subject of slavery and the slave trade in the District of Columbia.

I ask, sir, that these petitions may be received, and move that they be referred to the Committee on the District of Columbia. This motion itself, sir, sufficiently shows in what manner I think this subject ought to be treated in the Senate.

The petitioners ask Congress to consider the propriety and expediency of two things: first, of making provision for the extinction of slavery in the District; second, of abolishing or restraining the trade in slaves within the District. Similar petitions have already been received. Those gentlemen who think Congress have no power over any part of the subject, if they are clear and settled in that opinion, were perfectly justifiable in voting not to receive them. Any petition which, in our opinion, asks us to do that which is plainly against the constitution, we might very justly reject. As, if persons should petition us to pass a law abridging the freedom of the press, or respecting an establishment of religion, such petition

* Mr. Rives had resigned at the session 1833-'34, under legislative instructions to support the resolutions condemnatory of President Jackson. Mr. Tyler, who supported those resolutions, afterwards resigned under legislative instructions to expunge them; and Mr. Rives was elected in his place. These several events are accounted for by the fact, that an intermediate election had changed the political character of the Virginia General Assembly.

would very properly be denied any reception at all.

In doubtful cases we should incline to receive and consider, because doubtful cases ought not to be decided without consideration. But I cannot regard this case as a doubtful one. I think the constitutional power of Congress over the subject is clear, and, therefore, that we were bound to receive the petitions. And a large majority of the Senate are also of opinion that the petitions ought to be received.

I have often expressed the opinion that, over slavery, as it exists in the States, this Government has no control whatever. It is entirely and exclusively a State concern. And while it is thus clear that Congress has no direct power over this subject, it is our duty to take care that the authority of this Government is not brought to bear upon it by any indirect interference whatever. It must be left to the States, to the course of things, and to those causes over which this Government has no control. All this, in my opinion, is in the clear line of duty.

On the other hand, believing that Congress has constitutional power over slavery, and the trade in slaves, within the District, I think petitions on those subjects, respectfully presented, ought to be respectfully treated and respectfully considered. The respectful mode, the proper mode, is the ordinary mode. We have a committee on the affairs of the District. For very obvious reasons, and without any reference to this question, this committee is ordinarily composed principally of southern gentlemen. For many years a member from Virginia or Maryland has, I believe, been at the head of the committee. The committee, therefore, is the appropriate one, and there can be possibly no objection to it, on account of the manner in which it is constituted.

Now, I believe, sir, that the unanimous opinion of the North is, that Congress has no authority over slavery in the States; and perhaps equally unanimous that over slavery in the District it has such rightful authority.

Then, sir, the question is a question of the fitness, propriety, justice, and expediency, of considering these two subjects, or either of them, according to the prayer of these petitions.

It is well known to us and the country that Congress has hitherto entertained inquiries on both these points. On the 9th of January, 1809, the House of Representatives resolved, by very large majorities,

"That the Committee for the District of Columbia be instructed to take into consideration the law within the District in respect to slavery; that they inquire into the slave trade as it exists in, and is carried on through, the District, and that they report to the House such amendments to the existing laws as shall seem to them to be just."

And it resolved, also,

"That the committee be further instructed to inquire into the expediency of providing by law for the gradual abolition of slavery within the District, in such

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manner that the interest of no individual shall be injured thereby."

As early as March, 1816, the same House, on the motion of Mr. RANDOLPH, of Virginia, resolved,

"That a committee be appointed to inquire into the existence of an inhuman and illegal traffic of slaves carried on in and through the District of Columbia, and to report whether any, and what, measures are necessary for putting a stop to the same."

It is known, also, sir, that the Legislature of Pennsylvania has, within a very few years, urged upon Congress the propriety of providing for the abolition of slavery in the District. The House of Assembly of New York, about the same time, I think, passed a similar vote. After these proceedings, Mr. President, which were generally known, I think, the country was not at all prepared to find that these petitions would be objected to, on the ground that they asked for the exercise of an authority, on the part of Congress, which Congress cannot constitutionally exercise; or that, having been formally received, the prayer of them, in regard to both objects, would be immediately rejected, without reference to the committee, and without any inquiry.

Now, sir, the propriety, justice, and fitness, of any interference of Congress, for either of the purposes stated in the petitions, are the points on which, as it seems to me, it is highly proper for a committee to make a report. The well-disposed and patriotic among these petitioners are entitled to be respectfully answered; and if there be among them others whose motives are less praiseworthy, it is not the part of prudence to give them the advantage which they would derive from a right of complaint that the Senate had acted hastily or summarily on their petitions, without inquiry or consideration.

Let the committee set forth their own views on these points, dispassionately, fully, and candidly. Let the argument be seen and heard; let the people be trusted with it; and I have no doubt that a fair discussion of the subject will produce its proper effect, both in and out of the Senate.

This, sir, would have been, and is, the course of proceeding which appears to me to be prudent and just. The Senate, however, having decided otherwise, by a very large majority, I only say so much, on the present occasion, as may suffice to make my own opinions known.

The motion not to receive the petitions was laid on the table.

FRIDAY, March 18.

Expunging Resolution.

The following resolution, offered by Mr. BENTON, being in order, viz:

Whereas on the 26th day of December, in the year 1833, the following resolve was moved in the Senate:

"Resolved, That by dismissing the late Secretary of the Treasury because he would not, contrary to his

own sense of duty, remove the money of the United States in deposit with the Bank of the United States and its branches, in conformity with the President's opinion, and by appointing his successor to effect such removal, which has been done, the President has assumed the exercise of a power over the Treasury of the United States not granted him by the constitution and laws, and dangerous to the liberties of the people:"

Which proposed resolve was altered and changed by the mover thereof, on the 28th day of March, in the year 1834, so as to read as follows:

"Resolved, That in taking upon himself the responsibility of removing the deposit of the public money from the Bank of the United States, the President of the United States has assumed the exercise of a power over the Treasury of the United States not granted to him by the constitution and laws, and dangerous to the liberties of the people:"

Which resolve, so changed and modified by the mover thereof on the same day and year last mentioned, was further altered so as to read in these words:

"Resolved, That the President in the late executive proceedings in relation to the revenue, has assumed upon himself authority and power not conferred by the constitution and laws, but in derogation of both:"

In which last-mentioned form the said resolve, on the same day and year last mentioned, was adopted by the Senate, and became the act and judgment of that body; and, as such, now remains upon the journal thereof:

And whereas the said resolve was irregularly, illegally, and unconstitutionally adopted by the Senate, in violation of the rights of defence which belong to every citizen, and in subversion of the fundamental principles of law and justice; because President Jackson was thereby adjudged and pronounced to be guilty of an impeachable offence, and a stigma placed upon him as a violator of his oath of office, and of the laws and constitution which he was sworn to preserve, protect, and defend, without going through the forms of an impeachment, and without allowing to him the benefits of a trial, or the means of defence:

And whereas the said resolve, in all its various shapes and forms, was unfounded and erroneous in point of fact, and, therefore, unjust and unrighteous, as well as irregular and unconstitutional; because the said President Jackson, neither in the act of dismissing Mr. Duane, nor in the appointment of Mr. Taney, as specified in the first form of the resolve, nor in taking upon himself the responsibility of removing the deposits, as specified in the second form of the same resolve, nor in any act which was then, or can now be, specified under the vague and ambiguous terms of the general denunciation contained in the third and last form of the resolve, did do or commit any act in violation or in derogation of the laws and constitution, or dangerous to the liberties of the people:

And whereas the said resolve, as adopted, was uncertain and ambiguous, containing nothing but a loose and floating charge for derogating from the laws and constitution, and assuming ungranted power and authority in the late executive proceedings in relation to the public revenue, without specifying what part of the executive proceedings, or what part of the public revenue, was intended to be referred to, or what parts of the laws and constitution were supposed to have been infringed, or in what part of the Union, or at what period of his administration, these late proceedings were supposed to have taken place;

thereby putting each Senator at liberty to vote in favor of the resolve upon a separate and secret reason of his own; and leaving the ground of the Senate's judgment to be guessed at by the public, and to be differently and diversely interpreted by individual Senators, according to the private and particular understanding of each; contrary to all the ends of justice, and to all the forms of legal and judicial proceeding—to the great prejudice of the accused, who would not know against what to defend himself; and to the loss of Senatorial responsibility, by shielding Senators from public accountability, for making up a judgment upon grounds which the public cannot know, and which, if known, might prove to be insufficient in law, or unfounded in fact:

And whereas the specifications contained in the first and second forms of the resolve, having been objected to in debate, and shown to be insufficient to sustain the charges they were adduced to support, and it being well believed that no majority could be obtained to vote for the said specifications; and the same having been actually withdrawn by the mover in the face of the whole Senate, in consequence of such objection and belief, and before any vote taken thereupon, the said specifications could not afterwards be admitted by any rule of parliamentary practice, or by any principle of legal implication, secret intentment, or mental reservation, to remain and continue a part of the written and public resolve from which they were thus withdrawn; and, if they could be so admitted, they would not be sufficient to sustain the charges therein contained:

And whereas the Senate being the constitutional tribunal for the trial of the President, when charged by the House of Representatives with offences against the laws and the constitution, the adoption of the said resolve before any impeachment was preferred by the House, was a breach of the privileges of the House, a violation of the constitution, a subversion of justice, a prejudication of a question which might legally come before the Senate, and a disqualification of that body to perform its constitutional duty with fairness and impartiality, if the President should thereafter be regularly impeached by the House of Representatives for the same offence:

And whereas the temperate, respectful, and argumentative defence and protest of the President against the aforesaid proceedings of the Senate was rejected and repulsed by that body, and was voted to be a breach of its privileges, and was not permitted to be entered on its journal, or printed among its documents, while all memorials, petitions, resolves, and remonstrances against the President, however violent or unfounded, and calculated to inflame the people against him, were duly and honorably received, encomiastically commented upon in speeches, read at the table, ordered to be printed with the long list of names attached, referred to the Finance Committee for consideration, filed away among the public archives, and now constitute a part of the public documents of the Senate, to be handed down to the latest posterity:

And whereas the said resolve was introduced, debated, and adopted, at a time and under circumstances which had the effect of co-operating with the Bank of the United States in the parricidal attempt which that institution was then making to produce a panic and pressure in the country, to destroy the confidence of the people in President Jackson, to paralyze his administration, to govern the elections, to bankrupt the State banks, ruin their currency, fill the whole

Union with terror and distress, and thereby to exhort from the sufferings and alarms of the people the restoration of the deposits and the renewal of its charter:

And whereas the said resolve is of evil example and dangerous precedent, and should never have been received, debated, or adopted by the Senate, or admitted to entry upon its journal: wherefore,

"Resolved, That the said resolve be expunged from the journal; and, for that purpose, that the Secretary of the Senate, at such time as the Senate may appoint, shall bring the manuscript journal of the session of 1833-'34 into the Senate, and, in the presence of the Senate, draw black lines round the said resolve, and write across the face thereof, in strong letters, the following words: "EXPUNGED BY ORDER OF THE SENATE, THIS — DAY OF —, IN THE YEAR OF OUR LORD 1836."

The preamble and resolution having been read, Mr. BERTON rose and said:

Mr. President: I comply with my promise, and, I presume, with the general expectation of the Senate and of the people, in bringing forward, at the first day that the Senate is full, and every State completely represented, my long-intended motion to expunge from the journal of the Senate the sentence of condemnation which was pronounced against President Jackson at the session of 1833-'34. I have given to my motion a more extended basis, and a more detailed and comprehensive form, than it wore at its first introduction; and I have done so for two reasons: first, that all the proceedings against President Jackson might be set out together, and exhibited to the public at one view; secondly, that our own reasons for impugning that act of the Senate should also be set out and fully submitted to the examination and scrutiny of the people. The first is due to the Senate, that all its proceedings in this novel and momentous case should be fully known; the second is due to the impugnors of their conduct, that it may be seen now, and in all time to come, that law and justice, and not the factious impulsions of party spirit, have governed our conduct.

The objection to this word expunge is founded upon that clause in the constitution which directs each House of Congress "to keep a journal of its proceedings." The word keep is the pregnant point of the objection. Gentlemen take a position in the rear of that word; and, out of the numerous and diverse meanings attributed to it by lexicographers, and exemplified by daily usage, they select one, and, shutting their eyes upon all other meanings, they rest the whole strength of the objection upon the propriety of that single selection. They take the word in the sense of preserve; and, adhering to that sense, they assume that the Senate is constitutionally commanded to preserve its journals, and that no part of them can be defaced or altered without disregarding the authority of that injunction. I am free to admit that, to preserve, is one of the meanings of the verb, to keep; but I must be permitted to affirm that it is one meaning only out of three

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or four dozen meanings which belong to that phrase, and which every Senator's recollection will readily recall to his mind. It is needless to thread the labyrinth of all these meanings, and to show, by multiplied dictionary quotations, in how many instances the verb, to keep, displays a signification entirely foreign, and even contradictory, to the idea of preserving. A few examples will suffice to illustrate the position, and to bring many other instances to the recollection of Senators. Thus: to keep up, is to maintain; to keep under, is to oppress; to keep house, is to eat and sleep at home; to keep the door, is to let people in and out; to keep company, is to frequent one; to keep a mill, is to grind grain; to keep store, is to sell goods; to keep a public house, is to sell entertainment; to keep bar, is to sell liquors; to keep a diary, is to write a daily history of what you do; and to keep a journal is the same thing. It is to make a journal; and the phrase has the same meaning in the constitution that it has in common parlance. When we direct a person in our employment to keep a journal, we direct him to make one; our intention is that he shall make one, and not that he shall preserve an old one already made by somebody else; and this is the precise meaning of the phrase in the constitution. That it is so, is clear, not only from the sense and reason of the injunction, but from the words which follow next after: "and, from time to time, publish the same, except such parts as in their judgment require secrecy." This injunction to publish follows immediately after the injunction to keep; it is part of the same sentence, and can only apply to the makers of the journal. They are to keep a journal, and to publish the same. Which same? The new one made by themselves, or the old one made by their predecessors? Certainly, they are to publish their own, which they are daily making, and not the one which was both made and published by a former Congress; and in this sense has the injunction been understood and acted upon by the two Houses from the date of their existence.

Again: if this injunction is to be interpreted to signify preserve, and we are to be sunk to the condition of mere keepers of the old journals, where is the injunction for making new ones? Where is the injunction under which our Secretary is now acting in writing down a history of your proceedings on this my present motion? There is nothing else in the constitution upon the subject. There is no other clause directing a journal to be made; and, if this interpretation is to prevail, then the absurdity prevails of having an injunction to save what there is no injunction to create!—the absurdity of having each successive Congress bound to preserve the journals of its predecessors, while neither its predecessors nor itself are required to make any journal whatever.

Again: if the Houses are to be the preservers, and not the makers, of journals, then a most

inadequate keeper is provided; for, during one half the time, the two Houses are not in session, the keepers are not in existence, for the Secretary is not the House; and during all that moiety of time, there can be no keeper of this thing which is to be kept all the time.

Again: if to keep the journal is to save old ones, and not to make new ones, then the constitutional injunction could have had no application to the first session of the first Congress; for the two Houses, during that session, had no pre-existing journal in their possession whereof to become the constitutional keepers.

There are but two injunctions in the constitution on the subject of the journal; the one to make it, the other to publish it; and both are found in the same clause. There is no specific command to preserve it; there is no keeper provided to stand guard over it. The House is not the keeper, and never has been, and never can be. The Secretary and the Clerk are the keepers, and they are not the Houses. The only preservation provided for is their custody and the publication; and that is the most effectual, and, in fact, the only safe preserver. What is published is preserved, though no one is appointed to keep it; what is not published is often lost, though committed to the custody of special guardians.

I have examined this word upon its literal meanings, as a verbal critic would do it; but I am bound to examine it practically, as a statesman should see it, and as the framers of the Constitution used it. Those wise men did not invent phrases, but adopted them, and used them in the sense known and accepted by the community; law terms, as understood in the courts; technical, as known in science; parliamentary, as known in legislation; and familiar phrases, as used by the people. Strong examples of this occur twice more in the very clause which we have been examining. There is the word "house;" "each House shall keep," &c. Here the word "house" is used in the parliamentary sense, and means, not stone and mortar, but people; and not people generally, but the representatives of the people; and these representatives organized for action. Yet, with a dictionary in hand, this word "house" might be shown to be the habitation, and not the inhabitants; and the walls and roof of this Capitol might be proved to have received the injunction of the constitution to keep a journal. Again: the House is directed to publish the journal, and under that injunction the journal is printed, because the popular sense of publishing is printing; while the legal sense is a mere discovery of its contents in any manner whatever. The reading of the journal at the Secretary's table every morning, the leaving it open in his office for the inspection of the public, is a publication in law; and this legal publication would comply with the letter of the constitution. But the common sense men who framed the constitution used the word in its popular sense, as synonymous with printing; and in

to the public, they stoutly maintained, would fall upon them if the proposed obliteration of the journal took place. And they affirmed that it was no answer to all these real injuries to say that the expunged part would be transferred to the new journal, and there preserved in full; for, they declared, this transfer would mislead and embarrass them; because they could not read the obliterated words in the place where they were first put, but would be disappointed in looking for them there, and might not be able to find them in their new place, under a different date, on another page, and in a different volume. This is the substantive part of the objection to my motion; and if there happened to be any reality in the supposed existence of all these wrongs and injuries, there might be some apology for the resistance they set up; but this is not the case; not one of these disastrous consequences will ever occur. All is mistake and delusion, the creation of fancy, the cheat of imagination, and the figment of the brain. There is nothing lost, nothing destroyed, nothing displaced. All will exist just as clearly, and just as usefully, for every practical and every legal purpose, as it now does; and this I will establish by proof in less time than it has taken me to state the proposition.

I request the Secretary to show me the Senate journals for 1833-'34; to tell me what the journals are, and how they are kept or disposed of.

[The SECRETARY stood up and said:

There is a manuscript copy of the journal, and a printed copy. The manuscript journal is but a single copy, and is the same that is read in the Senate every morning in sheets, and which is afterwards bound in a volume. From this manuscript one thousand and ten copies are printed, and distributed as follows: [The Secretary here showed the list of distribution, from which it appeared that twenty-five copies were to be placed in the library of Congress; two hundred and twenty-five were to be furnished to the Governors, Legislatures, universities, colleges, and incorporated historical societies, in each State; two copies each to each member of the Senate and of the House of Representatives; five copies each to the Vice President of the United States, to the Speaker of the House of Representatives, the heads of Departments, Attorney-General, Judges of the United States courts; two each to all bureau officers; twenty-five to the Secretary of State; thirty-five copies for the offices of the Secretary of the Senate and the Clerk of the House of Representatives; and two copies each to the Ministers from Great Britain, France, Spain, Russia, Prussia, Sweden, the Netherlands, Denmark, Portugal, the Hanseatic Republics, Mexico, Colombia, Chili, Peru, Buenos Ayres, Brazil, and Central America; and to the Consul General of the two Sicilies.]

Mr. B. resumed. We now arrive upon firm ground, and have solid matter to go upon. We

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can see and feel the question, and can handle both the objection and the answer to it. The Secretary's answer is the platform of my battery, and has already expunged the objection to my motion, whether the motion shall succeed in expunging the journal or not. He says there are two sets of journals; the manuscript, which consists of one copy; and the printed, which is multiplied to one thousand and ten copies. Hitherto the discussion has proceeded upon the assumption that there was but one copy of the journal, and that any erasure of that copy would be a total loss of the erased part. But now one thousand and ten other copies start up to our view, stand in array before us, and offer their multiplied pages to our free perusal; and the question now is, what are all these copies for? What use is made of them in fact, and in law? And the answer comes as quickly as the question can be put: first, in point of fact, that these printed journals are the only ones read, used, or referred to, either in this Senate, in the other House, before the public, or by the members themselves; secondly, that, in point of law, they are on an equal footing with the original manuscript volume, and received as legal evidence in every court of justice. Such are the decisions; and, not to impede the march of my argument, by the voluminous citation of cases, I refer you for a summary of them to Peake's Law of Evidence, American edition, by Norris, in the notes at the bottom of the pages 84, 85. He says, "the printed journals of Congress have been allowed to be read without proof of their authenticity;" and refers to cases. This puts an end to all objections. It settles all questions. Take the constitution as you please, to make or to preserve journals, and it is complied with; for both is done. One copy is directed to be made; a thousand and ten are made. Parts are directed to be published; all is published. Suppose preservation is intended; the most ample precautions are taken to preserve them, and so to multiply them, that every State in the Union, and every kingdom, republic, and empire, in Europe and the two Americas, shall possess copies, in addition to all the departments of the Federal Government, the library of Congress, and the offices of the Secretary of the Senate and of the Clerk of the House. Besides all this, each Senator has two copies for himself. All these are equal in law, and many ten thousand times superior in use, to the manuscript journal. Suppose that one be blacked up and blotted out according to the import of the word expunge; is the expunged matter lost? Is any fact suppressed? Are gentlemen prevented from justifying themselves by showing what they had done? Is the knowledge of any thing extinguished? So far from it, that if the manuscript journal should be secretly withdrawn and burnt, not a Senator here would find it out to the end of his life, unless gratuitously told of it! so little does it enter into the head of any one to think of that journal, much less to

look at it or to use it! Suppression of facts? Suppression of the knowledge or the fact that the Senate of the United States, in March, 1834, adjudged President Jackson to be guilty of having violated the laws and constitution of his country? The preposterous conception never entered our imaginations. We know that this act of the Senate is to live, and to live while American history lasts. We know that it is to gain new notoriety, and multiplied existences, from the very motion which I now make. To say nothing of our own action, my resolution, our speeches, the newspaper publications, and the universal attraction of the public mind to the subject, our own journals are again to become the recipient of its existence, and the instruments of its diffusion over the Union, the two Americas, and all Europe. The new manuscript journal, read this morning at our table, will contain every word of this judgment; the one thousand and ten copies to be printed will, every one, be honored with its impression.

Mr. B. said that he had chosen to make out his case upon reason and argument, with as little reference as possible to precedent and authority. I am, said he, in favor of the arguments which convince the understanding, in contradistinction to the authorities and precedents which subdue the will. I wish always to receive reasons myself, and therefore feel bound to render them. Addressing an enlightened Senate, and an intelligent community, I look to their understandings, and feel safe while I speak to their judgment. I have, therefore, postponed to the last, an authority drawn from our own history—an authority drawn from the history of the American Senate—covering the whole ground of the present case, and going far beyond what I now propose to do. It is a precedent of thirty years' standing, occurring in the good days of Mr. Jefferson, when the democracy were in the ascendant in both Houses of Congress, and when the fathers of the republic, the framers of the constitution, were in full life and full power to protect their work, and to see that nothing was done to impair the constitution which they had established.

[Mr. B. then read extracts from the journals of the Senate and House, of April, 1806, relative to the memorials of S. G. Ogden and William S. Smith.]

Mr. B. then remarked upon the passages which he had read from the Senate and House journals. He said that they established every point which was material to be made out in support of his motion; they establish both the right to expunge, and the duty to expunge, in such a case as is now presented in the proceedings against President Jackson. The memorials which were presented in the Senate and in the House of Representatives contained criminal charges against President Jefferson. They went to criminate him as a conniver at a violation of the laws, and to stigmatize him for bad faith to those who had been his dupes. The petitions

were in duplicate, and were presented simultaneously in the two Houses. In the House of Representatives they were instantly met by a resolve denying their truth, declaring them to be unfit matter to be presented to the House, and ordering them to be returned to the petitioners. In the Senate they were first ordered to be returned, but no reason assigned; they were then ordered to be expunged from it; and were expunged in the most effectual and irrecoverable manner. They were dropped from the volume. The very pages which contained them were dropped and omitted. For the journal being still in loose sheets, the sheets which contained the obnoxious proceedings were left out of the bound volume, and thus all trace of their existence disappeared. It is only by looking to the minutes and the journal of the House of Representatives that we can find out what these petitions were. Such is the case of 1806. It is a complete and perfect precedent for the case of 1836. The memorials were attacks upon Mr. Jefferson. They contained impeachable matter against him. They charged him with connivance and secret participation in the unlawful, disastrous, and tragical expedition of Miranda. The charges which they contained had filled all the opposition newspapers of the day, and had been used for every purpose of party warfare against him. To get these criminal charges on the journals was the next object. In the Senate, and in the House of Representatives, they were presented by the political enemies of Mr. Jefferson, and so far as they received support or countenance, it was from the ranks of the opposition. So of the proceedings against President Jackson. They are attacks upon him. They charge him with violating the laws and the constitution. They go to criminate and stigmatize him. The charges which they exhibit were universally circulated in the opposition newspapers before they were presented in the Senate. The Bank of the United States had formally accused the President, and all the publications of the day, periodical, diurnal, and what not, that espoused the cause of the bank, were filled with the charges. Party warfare had used them to the uttermost in the fall elections of 1833; but that was not sufficient; the same party spirit, and the same party, the bank federal party, which in 1806 wished to have its charges against President Jefferson transferred from the newspapers to the journals of Congress, thence to be transmitted to posterity as a part of the legislative history of the country; that same spirit, and that same party, has wished to do the same thing with the accusations against President Jackson. The Congress of 1806, both House and Senate, met this unconstitutional attempt as it deserved. The House refused the memorial, and voted it to be unsustained by evidence, and reprehensible in its character; the Senate ordered the whole proceeding, and every trace and letter of it, to be expunged from the journal. It is to no purpose, Mr. President, that

any one may attempt to draw a distinction where there is no difference. It is to no purpose that any one may attempt to draw a distinction between expunging at the same session, and at a subsequent one. There is no difference between the cases. The right to expunge rests upon the right to keep the journal clear of what ought never to be upon it. It rests upon the right to purify it from any thing improper, which inadvertence, mistake, or the injustice, virulence, and fury of party spirit, may have put upon it. To this purification there is no limit of time, either in law or in morals. It is not a case for a statute of limitations. Thus, from its very nature, the purification of the journal is to be effected when it can be; and that always implies a time posterior to the wrong; and in the case of faction, it implies a time posterior to the downfall of the faction. The precedent of 1806 meets the objection of 1836. It meets it full and fair in the face. The objection is, that the Senate is bound to preserve its proceedings; that it must write down all its proceedings in the journal, and then preserve them forever; never altering, changing, or effacing one word, one letter, one iota, one tittle, of the sacred work, from the moment it is to be done to the end of time. This is the objection; and it has been repeated rather too often to be itself changed or altered to avoid the overpowering authority of the precedent of 1806. And this, sir, is my answer to the Senator from Louisiana, (Mr. PORTER.) I tell him the expunging was not only at the same session, but on the same day that the proceeding took place.

After this preliminary view of the rights and power of the Senate over its journal, and in vindication of its authority to expunge by total obliterations, and consequently to expunge by an order instead of an erasure, Mr. B. came to the merits of the question, and said the view which he proposed to take of the proceedings against President Jackson required him to proceed to the fountain head and original source of this extraordinary process. It did not originate in the Senate of the United States, but in the Bank of the United States! and all that the Senate has done has been to copy the proceeding of which that institution was the author. A statement so material as this, (continued Mr. B.,) and which goes to exhibit the Senate of the United States as following the lead of the Bank of the United States in the condemnation of the President, cannot be made without evidence at hand to support it. No assertion of such a thing should be made, except as an introduction to the proof. Fully aware of this, it is my intention to economize words, to dispense with assertion, and to proceed directly to the evidence. With this object, and without advertising at present to a mass of secondary evidence in the bank gazettes of the autumn of 1833, I have recourse at once to a publication issuing directly from the bank—a pamphlet of fifty pages, issued by the board of directors on Tues-

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day, the 8d day of December, 1833. This was the same day on which the President of the United States delivered his annual message to Congress, and the day on which it was known everywhere that he would deliver it. On that day the President of the Bank of the United States sat at the head of his board of directors; and, taking cognizance of the imputed delinquencies of President Jackson, they proceeded to try and condemn him for a violation of the laws and constitution of his country—to denounce him for a despot, tyrant, and usurper—to assimilate him to counterfeiters—to load him with every odious and every infamous epithet—to indicate his impeachment to Congress—to argue at great length to prove him guilty—to order 5,000 copies of the argument and proceedings to be printed, and a copy to be furnished to each member of the Senate and House of Representatives. As a member of the Senate I had the honor to receive one of these pamphlets, the only favor I ever received from that institution, and for which I hope to show myself mindful by the use which I make of it. It is from that pamphlet that I now quote.

[Here Mr. B. read copious extracts from the pamphlet referred to, showing, that the whole proceeding in the Senate against President Jackson, all the accusations, specifications, arguments, and consequences on account of the removal of the deposits—had been marked out by the bank before Congress met. He then went into an extended argument on the law and the facts of the case; and concluded with a brief peroration in denunciation of the whole proceeding against President Jackson.]

TUESDAY, March 22.

Admission of Arkansas.

Mr. BUCHANAN, from the select committee to whom was referred the memorial of the Territory of Arkansas, reported a bill to provide for the admission of Arkansas into the States of the Union; which was read, and ordered to a second reading.

Mr. BENTON moved to make the bill for the admission of Michigan, and the other bill last reported, the special order for Friday.

Mr. CLAYTON moved Tuesday; and this motion was agreed to.

TUESDAY, March 29.

Admission of Michigan.

Mr. BENTON moved to postpone the previous orders, and to take up the bill to establish the northern boundary line of Ohio, and for the admission of Michigan into the Union; which motion was agreed to.

Mr. B. said the committee who reported this bill, and of which he was a member, had considered the southern boundary line as vir-

tually established. They had included in the proposed limits a considerable portion of territory on the north-west, and had estimated the whole amount of territory embraced within the territorial limits of the whole State at sixty thousand square miles. The territory attached, contained a very small portion of the Indian population. He spoke of the trade on the river between Lakes Michigan and Superior. As Michigan presented an extended frontier, both as related to the Indians and foreign powers, it was desirable that it should be as strong and defensible a State as possible. Mr. B. moved to strike out the words in the third section "be authorized to," so as to make it read, the President "shall" announce the fact of the acceptance by the Legislature: also, to strike out the words "shall receive the approbation of the Senators and Members of the House of Representatives elected to represent the said State in the Congress of the United States;" which were agreed to. He offered some further amendments of minor importance, which were also agreed to.

Mr. CLAYTON said: The bill proposed the ratification and confirmation of the constitution formed by the convention elected by the people of Michigan, but it changed the boundaries claimed by that constitution, in the most essential particulars. The bill, in the 8d section, provided that this act shall receive the assent of the Legislature of the State acting under the authority of the convention elected by its people, and thereupon, and without further proceedings on the part of Congress, the President shall announce that the conditions of her admission are complied with, and her Senators and Representative shall be allowed to take their seats in Congress, without further delay. Gentlemen would perceive that the condition required by the bill for so important a change of the boundaries of the new State was not the assent of the people of Michigan, but the assent of her Legislature, acting under the authority of the before-named convention. He wished to call the attention of gentlemen to this point: Michigan was to be admitted into the Union as soon as her Legislature, acting under the authority of the convention, assented to the boundaries given in the bill. Was this a proper way to admit a State into the Union? Was this consistent with the principles of civil Government, or of the origin of civil Governments, which required the assent of the governed to the form and manner of their Government? How was the assent of the people living on the north side of the lake given, either expressed or implied? Congress, by this bill, added 20,000 square miles to Michigan, not embraced in the boundaries defined in the constitution adopted by them; and how was the assent of the people living in that portion of territory, who took no part in forming this constitution, given to these boundaries? How would gentlemen extend the jurisdiction of the new State over this 20,000 square miles, without asking the assent

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of the people living there? Again: this bill struck out 500 square miles contained within the boundaries claimed by this constitution. The constitution runs thus: "We, the people of the Territory of Michigan, as established by the act of Congress of the 11th of January, 1805." Now, this bill extended the jurisdiction of this constitution over the people of an immense tract of country, who were not within the limits of this Territory, as established by the act of Congress of the 11th of January, 1805; and how this could be done, without violating the principle that all Governments were founded on the consent of the governed, he was at a loss to conceive.

Mr. C. gave his objections at length to another part of the constitution of Michigan, which provides that every white male inhabitant residing in the Territory at the time of the adoption of the constitution, or for a period of six months, shall be entitled to a vote. This clause, he contended, was in violation of the constitution, which gives to Congress alone the power to prescribe a uniform rule of naturalization. Mr. C. concluded by saying that he was anxious for the admission of Michigan into the Union; and if this bill should be rejected, as he thought it ought, another bill might be brought forward and passed at this session, providing for obtaining in the proper form the assent of all the people within the prescribed boundaries to the constitution, and thus Michigan might come into the Union with her sister, Arkansas, on the first day of the next session. She would only be deprived of the privilege of being represented in Congress for the short period yet remaining of this session, which would be fully compensated by coming into the Union as all the other States had done.

Mr. BENTON replied to Mr. OLAYTON, that both the points raised by him had been debated, and acquiesced in by Congress for nearly a quarter of a century, and cited the acts of Congress of 6th and 14th April, 1812, in relation to the admission of Louisiana into the Union, which he contended were parallel with the present case, and went into a minute history of the circumstances connected with it, to show its exact similarity to the case of Michigan.

Mr. HENDRICKS thought the case cited in regard to the admission of Michigan not exactly in point. There was no question of citizenship in Louisiana, and it was more than a year after her boundaries were prescribed and fixed before the new acquisition was made to her territory; and she had the right of rejection, although it accepted the additional territory. In this case the people of Michigan had no right of rejection. The people within the territory that was added had not participated in the formation of the constitution submitted to Congress; and, if they had, it is not known that the constitution would have been what it is. He did not wish to debate the question, but merely to show the difference between this and the case cited by the gentleman from Missouri.

WEDNESDAY, March 30.

Admission of Michigan.

Mr. BUCHANAN said that he had good reasons for desiring that the bill might be very speedily decided on, and, therefore, he should take up as little of the time of the Senate as possible. The first objection he should consider was the one suggested, rather than insisted on, by the Senator from Delaware; and that was, that no act had been passed by Congress for the purpose of enabling the people of Michigan to form a State constitution, in obedience to what had been supposed to be the custom in regard to other States that have been admitted into the Union. Now, was there, he would ask, any reason for passing such an act? Was it required by principle, or was it required by former practice? He utterly denied that it was required either by the one or the other, before a new State may be admitted into the Union; and whether it was given previously or subsequently to the application of a State for admission into the Union, was of no earthly importance. He admitted that the passage of such an act previously to the admission of a new State was the best course to adopt; but if a people had formed a republican constitution, and if Congress should think that they had assumed proper boundaries, was there any objection to their admission, whether the preliminary law had been passed, or otherwise? But, in the history of this Government, they had precedents to sanction this bill; and they had one which applied expressly to this very case; it being utterly impossible to draw any distinction between the two, unless in favor of Michigan. He referred to the case of the State of Tennessee, found in the second volume of the laws of the United States. The preamble was short, containing but a few lines, and he would read it. This brief preamble was a declaration that, "by the acceptance of the deed of cession of the State of North Carolina, Congress were bound to lay out, into one or more States, the territory thereby ceded to the United States. Congress, therefore, upon the presentation of a constitution by Tennessee, declared that State to be one of the United States of America, on an equal footing with the original States, in all respects whatever, by the name and title of the State of Tennessee."

Now, sir, (said Mr. B.,) what was the case here? There was no stipulation in the act of cession from the States of North Carolina and Georgia, confining this Territory to the formation of one State. On the contrary, the acts of both States provided that the ceded Territory should be formed into one or two States. According to the terms of the original cession, the Territory was to be formed into one or more States; and without any previous act of Congress, the Legislative Council passed a law for taking the census of the people of that Territory, declaring that, if a sufficient population

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should be found to entitle them to admission into the Union, the Governor was authorized to direct elections to be held for members of a convention to form a State constitution. The constitution, as in the case of Michigan, was formed under their Territorial Government; and Congress was not consulted at all in the matter. The first intimation Congress had received of the fact was in the Message of General Washington, recommending the admission of the State into the Union. He would read one sentence from this Message. It was dated the 8th of April, 1796. General Washington, in this Message, states, that "among the privileges, benefits, and advantages secured to the inhabitants of the Territory south of the river Ohio, appears to be the right of forming a permanent constitution and State Government; and of admission as a State by its delegates, into the Congress of the United States, on an equal footing with the original States, in all respects whatever, when it should have therein sixty thousand free inhabitants: Provided the constitution and Government so to be formed should be republican, and in conformity to the principles contained in the articles of the said ordinance."

This was the opinion of General Washington himself, distinctly expressed. The people of the Territory themselves made the first efforts for admission into the Union; they acted on their own authority solely, never having asked Congress for the passage of a previous law, and General Washington said they had the right, as they unquestionably had, to be admitted into the Union, if they had a sufficient population. This Message, just mentioned, was referred to a committee in both Houses of Congress; and in the House of Representatives, a report was immediately made by General Dearborn, the chairman of the committee of that House, in favor of the admission of the State. In the Senate this people met with a different reception. A report was made by Mr. King, chairman of the Senate committee, against their admission; and the committee took the ground that, as Congress had the right to decide whether this Territory should be divided into one or two States, Congress should have been consulted previous to the formation of their constitution. There was another objection taken by the committee, and that was, that as the census had been taken under the authority of the Territory, and not under the authority of Congress, there was not evidence of the existence therein of a sufficient population to entitle the Territory to admission. The Senate agreed to this report, and passed a bill directing a census of the inhabitants of the South-western Territory to be taken. That bill went to the lower House, who struck out every provision contained in it, and amended it by providing for the immediate admission of the State into the Union. The Senate receded from the position it had taken; the bill was passed on the last day of the session, as amend-

ed by the House; and at the subsequent session the Senators and Representatives of the new State took their seats in Congress. Now, he would defy any man whatever to point out the distinction between the two cases, unless it be in favor of Michigan. Here is no question whether one or two States were to be formed, making the case strongly in favor of Michigan. Yet, without the previous assent of Congress, Tennessee formed her constitution; knocked at your doors for admission; and being a welcome stranger, was cordially admitted. He would, then, ask gentlemen to mete out the same measure of justice and liberality to Michigan that was meted out to Tennessee. Ought they to be offended with the eagerness of the new States for admission into all the rights, privileges, and benefits of this Union, at a time when some of the old States were threatening to leave it? Ought we not, said he, to hail the coming in of these new States, our own flesh and blood, and, on account of the absence of a little form, not send them dissatisfied from our doors?

FRIDAY, April 1.

Admission of Michigan.

The Senate proceeded to consider the bill to establish the northern boundary line of Ohio, and to provide for the admission of the State of Michigan.

The question being on the motion of Mr. WRIGHT to admit the State as soon as the assent of delegates, appointed by the people of Michigan for that purpose, to a line, should be obtained,

Mr. SOUTHARD resumed the observations he had commenced on the preceding day, and spoke at much length.

Mr. HENDRICKS explained the amendments which he had laid on the table yesterday, and which he proposed to offer at a proper time.

Messrs. CLAYTON, EWING, and CLAY, addressed the Senate, principally in opposition to that part of the constitution of Michigan in relation to the right of suffrage.

Mr. BENTON and Mr. BUCHANAN spoke in favor of the admission, and in favor of the right of aliens to exercise the elective franchise under the ordinance of 1787.

The bill was then ordered to be engrossed and read a third time, by the following vote:

YEAS.—Messrs. Benton, Brown, Buchanan, Cuthbert, Ewing of Illinois, Grundy, Hendricks, Hill, Hubbard, King of Alabama, King of Georgia, Linn, Morris, Nicholas, Niles, Rives, Robinson, Ruggles, Shepley, Tallmadge, Tipton, Walker, Wright—23.

NAYS.—Messrs. Black, Davis, Ewing of Ohio, Leigh, Southard, Swift, Tomlinson, White—8.

SATURDAY, April 2.

Admission of Michigan.

The bill to establish the northern boundary of Ohio, and to provide for the admission of the State of Michigan into the United States, was read a third time.

On the question of its passage,

Mr. PORTER stated some objections which he had to the bill, and moved to recommit it.

On this question a debate ensued, in which Mr. CALHOUN, Mr. PORTER, Mr. WALKER, Mr. WRIGHT, Mr. BENTON, Mr. CRITTENDEN, Mr. PRESTON, Mr. CLAY, Mr. MANGUM, Mr. BLACK, Mr. WHITE, Mr. CLAYTON, Mr. WRIGHT, and Mr. SOUTHARD, severally addressed the Senate.

The question was then taken on the passage of the bill, and decided in the affirmative.

The bill was then passed.

Admission of Arkansas.

On motion of Mr. BUCHANAN,

The Senate proceeded to the consideration of the bill for the admission of Arkansas into the Union; and the bill having been read,

Mr. BUCHANAN explained the bill fully—expressed his anxiety that it should pass and be sent to the other House simultaneously with the Michigan bill, in order that the two States may come into the Union together. He explained that the bill contained no provisions that had been objected to in the Michigan bill; and, in answer to Mr. CALHOUN, stated that the rights of the Government to its public lands in the State were perfectly guarded. The bill, he said, had been reported more than a week ago; and being printed, and in the hands of every Senator, they had had a full opportunity of becoming acquainted with its provisions.

The bill was then ordered to be engrossed for a third reading.

MONDAY, April 4.

Admission of Arkansas.

The bill providing for the admission of Arkansas into the Union, on an equal footing with the other States, came up on its third reading.

Mr. BUCHANAN asked for the yeas and nays on the passage of the bill.

The question was then taken on the final passage of the bill, and it was passed by the following vote:

YEAS.—Messrs. Benton, Brown, Buchanan, Calhoun, Clayton, Cuthbert, Ewing of Illinois, Ewing of Ohio, Grundy, Hendricks, Hill, Hubbard, King of Alabama, King of Georgia, Linn, McKean, Mangum, Moore, Morris, Nicholas, Niles, Preston, Rives, Robinson, Ruggles, Shepley, Tallmadge, Tipton, Walker, White, Wright—81.

NAYS.—Messrs. Clay, Knight, Porter, Prentiss, Robbins, Swift—6.

WEDNESDAY, April 6.

Incendiary Publications.

The bill to prevent the circulation through the mails of incendiary publications was taken up as the special order.

Mr. CALHOUN briefly explained the provisions of the bill, and moved to fill up the first blank with \$100, and the second blank with \$1,000; which motion was agreed to.

[These sums apply to the penalty imposed on the deputy postmasters for a violation of the law, being a fine of not less than \$100, and not more than \$1,000.]

Mr. DAVIS said this was a very important bill, and ought not to be acted on without some deliberation. He had hoped some gentleman would have been prepared to deliver his views at length upon it. As for himself he was not now prepared to speak on it. He would move to postpone it for the present.

Mr. GRUNDY observed that he had lately turned his attention to the subject, and approved of the principles of the bill, though he did not think it altogether calculated to effect the objects it had in view. If the gentleman from South Carolina would consent to a postponement for two or three days, he should then be prepared to offer some amendments that he thought would be satisfactory to the gentleman, and would answer the purpose intended; his duties in the committee of which he was chairman preventing him from attending to the subject sooner. Mr. G., after further consideration, and a suggestion from Mr. CALHOUN, assented to the postponement till to-morrow, and the bill was accordingly so postponed.

THURSDAY, April 7.

Railroad Contracts.

Mr. GRUNDY, from the Committee on the Post Office and Post Roads, made a report on the subject of the bill to authorize contracts with the railroad companies; which he read from the table.

Mr. EWING, of Ohio, stated that the report contained much important matter which it was proper to lay before the public; and he accordingly moved that there be 5,000 extra copies printed.

The motion was then agreed to.

Incendiary Publications.

The Senate proceeded to consider the bill prohibiting deputy postmasters from receiving or transmitting through the mail, to any State, Territory, or District, certain papers therein mentioned, the circulation of which, by the laws of said State, Territory, or District, may be prohibited, and for other purposes.

Mr. DAVIS, of Massachusetts, rose and said he proposed, as no other gentleman seemed inclined to take the floor, to invite the attention

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of the Senate to some considerations connected with this bill. The Senator from South Carolina (Mr. CALHOUN) had justly observed that it was an important measure, and I (said Mr. D.) so view it, for it seems to me to propose a great, and, I fear, injurious change in the policy of the United States. The alleged object (said Mr. D.) is to suppress what are called incendiary publications; and it is necessary to look at the provisions of the bill, that the change in policy, and the manner in which it affects privileges which we have hitherto enjoyed, may be fully understood.

1st. It provides that it shall be unlawful for any postmaster to put into the mail, or deliver therefrom, any pamphlet, newspaper, handbill, or other paper, printed or written, or pictorial representation, touching the subject of slavery, addressed to any person living in a State where the circulation of such paper is prohibited by law.

2d. It makes a violation of this provision punishable with fine or imprisonment.

I need not (said Mr. D.) state the provisions more particularly, as the residue consists of details. It seems to me plain that the object is to transfer from the United States the regulation of the mail and of the Post Office, in these matters, to the States, by making the laws of the States, whatever they are or may be, the laws to regulate the Post Office, and to that extent the laws of the United States. This is a manifest change of public policy, a departure in principle from the uniform course of legislation; and, not being prepared for such a step, I have risen to express the hope that it will not be hastily taken. It was the pleasure of the Senate to place me upon the committee, and, as I did not concur in the report or the bill, it is probably expected that I should state my reasons for this difference of opinion.

The report drawn by the distinguished Senator from South Carolina (Mr. CALHOUN) treats the matter in two distinct views, which, however ingenious and able, seem to me not to be reconciled to each other.

In the first place, it contains an able argument to prove that Congress has no constitutional power to pass a law to regulate the Post Office, by making the postmasters the judges to determine the moral, political, religious, or other tendency, of printed or written matter, for this would be an indirect invasion of the liberty of the press, and a perversion of the purposes and intent of the power granted to manage the Post Office. It likens the case to that of the sedition law, which was condemned on the ground that the press was indirectly invaded by it.

In the second place, it contends that, while this direct exercise of power by legislation here is denied, there is a full and complete constitutional authority to sanction and carry into effect the laws of the States, when they require precisely the same investigation of the mail, the

same objectionable separation of its contents, and the same practical invasion of the press.

Now, sir, (said Mr. D.,) the propositions seem to me to lead to the same result. The one proposes a suppression of certain papers by the agency of the postmasters, and so does the other; not only the end, therefore, but the means, are the same. The only difference is, that in one case the law comes from a State or States, and in the other from Congress; but if Congress, by its acts, so far adopts the law of a State as to make it a rule of conduct for public officers, requiring them, under penalties, to obey it, is not such a law in fact a law of Congress by adoption? Is it not in truth a part of our legislation in the regulation of the Post Office as much as if it had emanated directly from Congress? I confess I cannot perceive the difference, and the two parts of the report, which arrive at opposite results, seem to be irreconcilable. The one disproves the other; for, if the one is right, the other is wrong. But, sir, I do not propose to enter into the question of constitutional power at this time, for I have other and distinct grounds of objection, about which I feel no embarrassment; and, therefore, shall at present leave this debatable question.

It seems to me, if the power were unquestionable, the measure is inexpedient. To make myself understood, I must call the attention of the Senate to the character of the Post Office, and then distinctly to the proposed plan of regulation; and, if I mistake not, it will be found to be such a perversion of the purposes for which the Post Office was established, as greatly to impair its usefulness.

There is, perhaps, no known definition of a post office which so distinctly indicates its character as to show the precise purposes of its establishment in detail. The general design is to transmit intelligence; but in what form and to what extent, are all matters undetermined by the constitution; for the authority is there contained in a single line. Among the enumerated powers, it reads "to establish post offices and post roads." This is all. A naked grant of power, leaving to Congress to determine how and in what way it shall be executed; and Congress has hitherto determined both what shall go in the mail bags, and how they shall be transported, and upon what conditions. The reason of vesting this power in Congress is apparent. The transmission of intelligence through all parts of the country was obviously a matter of great public concernment, in which all were interested; and, as all would be represented here, that could manifestly be better regulated and provided for here than by the States separately. The matter was supposed to be thus confided where there could be no dispute or conflict of interest, but the laws would be uniform, and the transmission certain. It is, then, I think, clearly the duty of Congress to provide for the speedy trans-

mission of intelligence; and in this, I doubt not, we all concur.

The question, then, raised by this bill is this: shall we further regulate the Post Office, by requiring the postmasters to investigate the contents of the mail? The bill makes it penal to receive or deliver any papers, the circulation of which are forbidden. Now, sir, how can the receiving or delivering postmasters know what he receives or delivers, without examination? If he fails to examine them the whole purpose of the law is defeated. If he examines them, the contents of the mail are exposed. The bill embraces all letters, as well as printed matter; for, after enumerating newspapers, pamphlets, handbills, pictures, &c., it says, or any other paper. The mail is necessarily submitted to the inspection of the postmasters, with a power to reject or withhold so much of the contents as have any thing in them touching the subject of slavery, if it is prohibited circulation. We are told that all incendiary publications are prohibited; but what are incendiary? Yes, what are incendiary? I will read to the Senate, from a document before me, that they may be the better able to judge what is and will be inhibited as incendiary. A short time past, a citizen of New York, residing in that State, and editing a newspaper called the *Emancipator*, was indicted in Alabama; and as he was not resident in that State, the Governor demanded him of the Governor of New York as a fugitive from justice, (though he had not been within the limits of Alabama,) that he might be tried upon the indictment. A copy of this bill was exhibited to the Governor of New York, as the foundation of the right of claim, and thus became public. The Governor of New York denied that a person who had not been in Alabama could be a fugitive from that State, and so he was not surrendered.

Now, (said Mr. D.) I beg the Senate to be attentive to the offence set forth in this indictment. It consists in matter extracted from the *Emancipator*, and is as follows: "God commands and all nature cries out that man should not be held as property. The system of making men property has plunged 2,250,000 of our fellow-countrymen into the deepest physical and moral degradation, and they are every moment sinking deeper." Of all the matter published in this incendiary periodical, as it is styled, this has been selected as the most criminal, as designed, as the indictment alleges, "to produce conspiracy, insurrection, and rebellion, among the slave population of said State, in open violation of the act of the General Assembly in such case made and provided." Such is the law of Alabama, and such the language which it makes criminal, and sends the publisher, on conviction, I suppose, to the penitentiary. With the policy of such a law I have nothing to do on this occasion, for I adduce this indictment as a leading example to show what is by law made incendiary. Whatever may be the views entertained in the States where slavery

is lawful, I cannot forbear remarking that this language will be read with surprise in this connection out of them. It will be esteemed a mere expression of opinion, a mere truism, by nine-tenths of the people; and they will find it difficult to understand how, in a land where the freedom of speech and the press are secured by the constitution, it can be in law criminal. If, sir, such declarations are to be denied the privilege of the mail, the constitution of Massachusetts would be excluded as libellous, because it declares all men are born free and equal. This sentiment is manifestly as much at war with slavery as that contained in the indictment.

Mr. CALHOUN said that the Senator from Massachusetts had certainly raised a very important point; and he could not do justice to his argument and to himself without previously arranging the various points of it. The Senator, however, was mistaken in his view of the subject. It was because the subject particularly belonged to the States, and it was the duty of the General Government to aid and co-operate with them in carrying their laws into effect, that the bill was framed. He ventured to assert that not only did this duty result from the relations between the States and the Federal Government, but that it was an indispensable duty. The principle was not a new one; it had been applied more than once; but it was an old principle applied to a new case. He threw out these hints to prevent any erroneous impressions resulting from the remarks of the gentleman from Massachusetts.

FRIDAY, April 8.

New Hampshire Expunging Resolution.

Mr. HUBBARD stated that the Legislature of New Hampshire, on the 25th of June, 1835, passed a resolution instructing their Senators in the United States Senate to vote for expunging from the journals of that Senate a certain resolution which was adopted on the 28th of March, 1834; and that the Legislature also passed, at the same time, a resolution instructing their Senators to present their resolution to the Senate. In obedience, therefore, to the instructions of the Legislature, and in accordance with his own feelings, he would now ask leave to present the resolution, and would move that it be laid upon the table and printed.

The following is the resolution referred to by Mr. HUBBARD:

"STATE OF NEW HAMPSHIRE:

"Be it resolved by the Senate and House of Representatives in General Court convened, That our Senators in Congress be, and they are hereby, authorized to vote that the resolution passed by the Senate of the United States on the 28th day of March, 1834, in the words following, viz: 'That the President, in the late executive proceedings in relation to the public revenue, has assumed upon himself authority and power not conferred by the constitution and laws, but

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in derogation of both,' be expunged from the journals of that body; and that they be further instructed to lay this resolution before the Senate of the United States."

Maine Anti-Slavery Agitation Resolutions.

Mr. RUGGLES held a copy of resolutions passed by the Legislature of Maine, relating to the subject of abolition proceedings in the non-slaveholding States. They are responsive to resolutions transmitted to the Executive of Maine from the States of North and South Carolina, Georgia, and Alabama, calling upon the non-slaveholding States to suppress, by law, abolition publications. These resolutions of the Legislature of Maine assert, as the sense of the two Houses, that the Government of the United States is one of enumerated, limited, and defined powers; that the power of regulating slavery within the States does not belong to Congress, not being one of the enumerated powers; that the States, with certain defined exceptions, are, with respect to each other, distinct and sovereign States, each having an independent Government, whose action is not to be questioned by any power whatever, but by the people of such States; and that any interference by a State, or by the citizens of a State, with the domestic concerns of another State, tends to break up the compromises of, and to disturb, the Union. The resolutions further declare it to be inexpedient to legislate on the subject of abolition publications, because there is no abolition paper printed within the State, and because all discussion on the subject has been arrested by the decided expression of public disapprobation. These resolutions, said Mr. R., were reported from a large and respectable committee of both Houses, and received the unanimous assent of that committee. In the Senate they passed unanimously, and nearly so in the House of Representatives, a body composed of upwards of one hundred and eighty members. There was one circumstance, said Mr. R., which he considered deserving of the particular attention of certain honorable Senators. He could not refrain from recommending it, with due deference, to their serious consideration, as furnishing an example worthy of imitation in this body in its action upon the abolition memorials which had been, or should hereafter be, presented here. The circumstance to which he alluded, he said, was this: the resolutions were permitted to pass through both Houses of the Legislature of Maine, without one word of agitating and exciting debate.

MONDAY, April 11.

*Anti-Slavery Incendiary Publications.**

The Senate proceeded to consider the bill prohibiting deputy postmasters from receiving

* The slavery discussion which has so long occupied Congress dates its regular commencement from this session,

or transmitting through the mail, to any State, Territory, or District, certain papers therein mentioned, the circulation of which, by the laws of said State, Territory, or District, may be prohibited, and for other purposes.

Mr. KING, of Georgia, had intended to say something upon the subject before the question was taken on engrossing the bill, and, as the Senator from Carolina so wished it, he would as soon say it then as at any other time. He should support and vote for the bill; and if the chairman of the committee had been content to report the bill without his reasons for it, no discussion would have arisen between them on the subject of the bill or the bill itself. But as his support of the bill might be taken as an implied assent to the principles of the report, he must say enough to set himself right on that point.

He did not recollect to have heard the constitutional power of Congress over the subject seriously doubted until the President had made reference to the subject in his Message. That there were difficulties in the details of legislation necessary to fasten upon the mischief complained of, had been anticipated by many.

But positions had been assumed and principles insisted upon by the Senator from Carolina, not only inconsistent with the bill reported, but, he thought, inconsistent with the existence of the Government itself, and which, if established and carried into practice, must hastily end in its dissolution. He did not believe the Government could stand a twelvemonth if we were to establish as a fundamental principle that principle of permanent necessity for a collision between the State and General Governments which he thought might be deduced from the principles of the Senator from Carolina, as laid down in his report. What were these positions? Why, it was insisted that Congress had no power so to modify its laws under the Post Office power as to refuse to transmit matter intended to abolish slavery in the slaveholding States; because,

1st. Such legislation would abridge the freedom of the press; and

2d. Because such legislation by Congress would assume a power fatal to the rights of the States.

The President had recommended Congress to pass a law so regulating the action of the Government under the Post Office power as to withhold the agency of the mail in the transmission

growing out of the numerous presentation of anti-slavery memorials to Congress, and the frequent transmission by mail of anti-slavery publications into the Slave States. The condemnation of these presentations and transmissions was general among the members; but a great diversity of opinion prevailed as to the mode of treating them. Members from the Slave States divided upon this point from the beginning; and the debates which now took place will show the nature, and the starting point of that division, and the consequences then apprehended from giving to this subject a national discussion.

of certain matter, the acknowledged object and evident design of which was the destruction of an interest recognized in the constitution, and by the constitution secured to the States.

Under what classification of powers did such legislation fall? Mr. Madison, in his classification of powers granted to the General Government, had spoken first of the powers to secure the country against foreign danger; secondly, for the regulation of foreign commerce; and, thirdly, of the important and extensive class, "for the maintenance of harmony, and a proper intercourse among the States." What (inquired Mr. K.) are the specific powers making up this class? It was unnecessary to enumerate all of them; the most obvious would occur to all. They were also enumerated by Mr. Madison; and besides the power to regulate commerce among the several States, and others, was to be found the power "to establish post offices and post roads." The power "to establish post offices and post roads" was then a power belonging to that class given to the Government "for the maintenance of harmony, and a proper intercourse among the States." It was, of course, auxiliary to every other power belonging to this class, but could not be made inconsistent with any of them. The power was granted in a general and simple form; it was not stated what we should carry by mail, or what we should not carry. This was left to be limited only by the purposes of the grant, and to be reconciled with the other provisions of the constitution. With this limitation, like every other general grant, it was submitted to the discretion of Congress, who have power "to pass all laws necessary and proper to carry into execution the powers granted" in the constitution.

Mr. K. then asked if the existing laws which authorized the transmission by mail of abolition papers from the non-slaveholding to the slaveholding States, were laws "necessary and proper" "for the maintenance of harmony, and a proper intercourse among the States?" Were they necessary and proper for the preservation of an interest they were intended and obviously calculated to destroy? No; they were unnecessary and improper for this or any other constitutional purpose. And yet it was said by the Senator from Carolina that we had no independent power to modify or repeal them; we were under the strange necessity of doing wrong, until the States might meet, and legislate, and compel us to do right; thereby creating a fundamental necessity for a collision between the two Governments. Why, (said Mr. K.,) so far from being compelled to carry these abolition papers, in the spirit of the constitution we have no power to carry them. This resulted (he said) from the acknowledged right of the States to stop them. All admitted this right in the States; and upon what principle was it? It was simply on the principle that the circulation of such matter was not necessary for national purposes, and was inconsistent with

the rights which belonged exclusively to the slaveholding States. If we had a right to send them, the States had no right to stop them. In sending these papers by our laws, we assumed the right to send them. This assumption was either right or it was wrong. If right, the States had no right to interfere with us; and if wrong, we should give them no occasion to do so. Rights (he said) might be co-existent and concurrent; but they could never be co-existent and inconsistent. Having no right, then, to use any means inconsistent with the acknowledged rights of the States, we could not be compelled to do so through the Post Office power, which was limited by the purposes of the grant, and should be carried into effect by laws "necessary and proper" to effect the purposes for which the power was granted, and not to effect purposes for which the power was not granted. If these positions were true, it was plain that Congress had a right to regulate its own action under its own power, with a due regard to those rights of the States recognized in the constitution, and it was the duty of Congress to do so.

Mr. K., after laying down these general principles, proceeded to notice the specific objections.

The truth is, (said Mr. K.,) we have the power to act in this matter under the constitution, or we have no power at all. We cannot derive any power from the laws of one State to act upon the citizens of another. We derive our power here under the constitution, which gives us exclusive charge of the Post Office Department. Under this power we can pass all proper laws, and punish their infraction, which carry into effect the objects of the power, and duly respect the rights of the States. Here was (Mr. K. said) the source from which we derived our power; and he hoped gentlemen would not refuse to vote for the bill because they could not agree to the principles of the report or reconcile it with the bill.

No new power was asserted here. On the contrary, the power of the States over the whole subject of slavery is admitted. The Post Office power is asserted to be in the General Government, and we are only recommended to use it in such way as not to disturb the rights we acknowledge in the States. These are precisely the principles of the bill. We might adopt the laws of the States, where we acknowledge their right to pass them, without deriving any authority from them. In placing this confidence in the States, where we wish them to aid us in respecting their rights in the exercise of ours, we had only to see that the law to be adopted was such as they had a right to pass. This was done in the bill, which confined the laws to be adopted to the subject of domestic slavery, which all acknowledged to be under the exclusive jurisdiction of the slaveholding States.

After Mr. KING had concluded, Mr. CALHOUN expressed a wish to adjourn,

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Anti-Slavery Incendiary Publications.

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or pass over the subject informally; and, on motion of Mr. KING, of Alabama, the bill was laid on the table until to-morrow.

TUESDAY, April 12.

Slavery in Arkansas.

Mr. CLAY rose to present several petitions which had come into his hands. They were signed by citizens of Philadelphia, many of whom were known to be of the first respectability, and the others were, no doubt, entitled to the highest consideration. The petitions were directed against the admission of Arkansas into the Union, while there was a clause in her constitution prohibiting any future legislation for the abolition of slavery within her limits. He had felt considerable doubt as to the proper disposition which he should make of these petitions, while he wished to acquit himself of the duty intrusted to him. The bill for the admission of Arkansas had passed the Senate, and gone to the other House. It was possible that it would be returned from that branch with an amendment, which would bring this subject into consideration. He wished the petitioners had selected some other organ. He did not concur in the prayer of the petitioners. He thought that Arkansas, and any other State or Territory south of 36° 30', had the entire right, according to the compromise made on the Missouri question, to frame its constitution, in reference to slavery, as it might think proper. He adhered to the opinions on this point which he held on a former memorable occasion, which would be in the recollection of Senators. He would only ask that one of these memorials be read, and that the whole of them should then be laid on the table.

Incendiary Publications.

The Senate having resumed the consideration of the bill to prohibit the circulation through the mails of incendiary publications,

Mr. CALHOUN addressed the Senate:

I am aware (said Mr. C.) how offensive it is to speak of one's self; but as the Senator from Georgia on my right (Mr. KING) has thought proper to impute to me improper motives, I feel myself compelled, in self defence, to state the reasons which have governed my course in reference to the subject now under consideration. The Senator is greatly mistaken in supposing that I was governed by hostility to General Jackson. So far is that from being the fact, that I came here at the commencement of the session with fixed and settled principles on the subject now under discussion, and which, in pursuing the course that the Senator condemns, I have but attempted to carry into effect.

As soon as the subject of abolition began to agitate the South last Summer, in consequence of the transmission of incendiary publications through the mail, I saw at once that it would force itself on the notice of Congress at the

present session; and that it involved questions of great delicacy and difficulty. I immediately turned my attention, in consequence, to the subject, and after due reflection arrived at the conclusion that Congress could exercise no direct power over it, and that, if it acted at all, the only mode in which it could act, consistently with the constitution and the rights and safety of the slaveholding States, would be in the manner proposed by this bill. I also saw that there was no inconsiderable danger in the excited state of the feelings of the South; that the power, however dangerous, and unconstitutional, might be thoughtlessly yielded to Congress, knowing full well how apt the weak and timid are, in a state of excitement and alarm, to seek temporary protection in any quarter, regardless of after consequences, and how ready the artful and designing ever are to seize on such occasions to extend and perpetuate their power.

With these impressions I arrived here at the beginning of the session. The President's Message was not calculated to remove my apprehensions. He assumed for Congress direct power over the subject, and that on the broadest, most unqualified, and dangerous principles. Knowing the influence of his name, by reason of his great patronage and the rigid discipline of party, with a large portion of the country, who have scarcely any other standard of constitution, politics, and morals, I saw the full extent of the danger of having these dangerous principles reduced to practice, and I determined at once to use every effort to prevent it.

I saw, as I have remarked, that there was reason to apprehend that the principles embraced in the Message might be reduced to practice; principles which I believed to be dangerous to the South, and subversive of the liberty of the press.

[Here Mr. C. stated what he regarded as the principles of the Message.]

Thus regarding the Message, the question which presented itself on its first perusal was, how to prevent powers so dangerous and unconstitutional from being carried into practice. To permit the portion of the Message relating to the subject under consideration to take its regular course, and be referred to the Committee on the Post Office and post roads, would, I saw, be the most certain way to defeat what I had in view. I could not doubt, from the composition of the committee, that the report would coincide with the Message, and that it would be drawn up with all that tact, ingenuity, and address, for which the chairman of the committee and the head of the Post Office Department are not a little distinguished. With this impression, I could not but apprehend that the authority of the President, backed by such a report, would go far to rivet in the public mind the dangerous principles which it was my design to defeat, and which could only be ef-

fect by referring the portion of the Message in question to a Select Committee, by which the subject might be thoroughly investigated, and the result presented in a report. With this view, I moved the committee; and the bill and report, which the Senator has attacked so violently, are the result.

These are the reasons which governed me in the course I took, and not the base and unworthy motive of hostility to General Jackson. I appeal with confidence to my life to prove that neither hostility nor attachment to any man or any party can influence me in the discharge of my public duties; but were I capable of being influenced by such motives, I must tell the Senator from Georgia that I have too little regard for the opinion of General Jackson, and, were it not for his high station, I would add, his character too, to permit his course to influence me in the slightest degree, either for or against any measure.

Having now assigned the motives which governed me, it is with satisfaction I add that I have a fair prospect of success. So entirely are the principles of the Message abandoned, that not a friend of the President has ventured, and I hazard nothing in saying will venture, to assert them practically, whatever they may venture to do in argument. They well know now that, since the subject has been investigated, a bill to carry into effect the recommendation of the Message would receive no support, even from the ranks of the administration, devoted as they are to their chieftain.

I now turn to the objections of the Senator from Massachusetts, (Mr. DAVIS,) which were directed, not against the report, but the bill itself. The Senator confined his objections to the principles of the bill, which he pronounces dangerous and unconstitutional. It is my wish to meet his objections fully, fairly, and directly. For this purpose it will be necessary to have an accurate and clear conception of the principles of the bill, as it is impossible without it to estimate correctly the force either of the objections or the reply. I am thus constrained to restate what the principles are, at the hazard of being considered somewhat tedious.

The first and leading principle is, that the subject of slavery is under the sole and exclusive control of the States where the institution exists. It belongs to them to determine what may endanger its existence, and when and how it may be defended. In the exercise of this right, they may prohibit the introduction or circulation of any paper or publication which may, in their opinion, disturb or endanger the institution. Thus far all are agreed. To this extent no one has questioned the right of the States; not even the Senator from Massachusetts, in his numerous objections to the bill.

The next and remaining principle of the bill is intimately connected with the preceding; and, in fact, springs directly from it. It assumes that it is the duty of the General Government, in the exercise of its delegated rights,

to respect the laws which the slaveholding States may pass in protection of its institutions; or, to express it differently, it is its duty to pass such laws as may be necessary to make it obligatory on its officers and agents to abstain from violating the laws of the States, and to co-operate, as far as it may consistently be done, in their execution. It is against this principle that the objections of the Senator from Massachusetts have been directed, and to which I now proceed to reply.

[Here Mr. C. replied to the argumentative part of Mr. DAVIS's speech; and continued].

One question still remains to be decided that is presented by this bill. To refuse to pass this bill would be virtually to co-operate with the abolitionists—would be to make the officers and agents of the Post Office Department in effect their agents and abettors in the circulation of their incendiary publications, in violation of the laws of the States. It is your unquestionable duty, as I have demonstrably proved, to abstain from their violation, and, by refusing or neglecting to discharge that duty, you would clearly enlist, in the existing controversy, on the side of the abolitionists, against the Southern States. Should such be your decision, by refusing to pass this bill, I shall say to the people of the South, look to yourselves—you have nothing to hope from others. But I must tell the Senate, be your decision what it may, the South will never abandon the principles of this bill. If you refuse co-operation with our laws, and conflict should ensue between your and our law, the Southern States will never yield to the superiority of yours. We have a remedy in our hands, which, in such event, we shall not fail to apply. We have high authority for asserting that, in such cases, "State interposition is the rightful remedy"—a doctrine first announced by Jefferson—adopted by the patriotic and republican State of Kentucky by a solemn resolution, in 1793, and finally carried out into successful practice on a recent occasion, ever to be remembered, by the gallant State which I, in part, have the honor to represent. In this well-tested and efficient remedy, sustained by the principles developed in the report and asserted in this bill, the slaveholding States have an ample protection. Let it be fixed, let it be riveted in every southern mind, that the laws of the slaveholding States for the protection of their domestic institutions are paramount to the laws of the General Government in regulation of commerce and the mail, and that the latter must yield to the former in the event of conflict; and that, if the Government should refuse to yield, the States have a right to interpose, and we are safe. With these principles, nothing but concert would be wanting to bid defiance to the movements of the abolitionists, whether at home or abroad, and to place our domestic institutions, and, with them, our

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Professor Lieber.

[SENATE.]

security and peace, under our own protection, and beyond the reach of danger.

Mr. DAVIS then rose and said that he must obtrude himself upon the patience of the Senate again, as the remarks which had been made called for some reply, and made it necessary for him to carry out the argument, which he was restrained from doing the other day by circumstances beyond his control. He then proceeded, in substance, as follows: Sir, I have shunned every thing which might occasion excitement in this debate, but I cannot forbear remarking, upon the fervent appeal made by the Senator from South Carolina in his closing observations, that I hold it to be unwise, most unwise, for those interested, to make slavery a topic of frequent discussion, to force it upon the notice of those who live in the free States, and, above all, to make them remember its existence, by feeling inconveniences from it at every step they take. It is, under its most favorable aspects, viewed as a great moral evil, distracting the country with anxiety and deep concern for the common welfare and safety. Under such circumstances, can any thing be more impolitic than to pass a law which will make every citizen of a free State participate in this evil, by feeling that he is restrained in his privileges in consequence of it? By forcing slavery into his presence every time he has occasion to use the Post Office, and vexing him with an odious scrutiny into his papers? If gentlemen would rouse up a spirit of resentment against slavery, if they would fill the public mind with new objections to it, and excite the people to oppose it, then let them go on with this policy, and they will doubtless accomplish their object. But if they would tranquillize public feeling, then I would recommend to them to keep slavery as far out of sight and hearing as possible, and never call on the public to make sacrifices of their rights or privileges to sustain it. Above all, never impair their enjoyments by the exercise of doubtful authority. I therefore entreat gentlemen to pause before they adopt a measure like this, and consider the consequences.

[Here Mr. DAVIS entered upon an elaborate argument to show that the bill conflicted with the constitution in abridging the liberty of the press, and the freedom of mail correspondence.]

WEDNESDAY, April 18.

Incendiary Publications.

On motion of Mr. CALHOUN, the special order, being the bill prohibiting deputy postmasters from receiving or transmitting through the mail, to any State, Territory, or District, certain papers therein mentioned, the publication of which, by the laws of said State, Territory, or District, may be prohibited, and for other purposes, being taken up,

Mr. BENTON said he was not willing that the

United States should be made a pack-horse for the abolitionists; but it seemed to him to be going too far to invest ten thousand postmasters (for he believed that was about the number) with the authority invested in them by this bill, and he could not vote for it. The authority was such a one as would lead to things they might all regret. He was very sorry to vote against any measure which, even in appearance, had for its object the suppression of so great an evil; but he thought this bill was not calculated to effect that object.

Mr. GRUNDY hoped this bill might be postponed for a short time, so that gentlemen might turn their attention particularly to it, and if it did not suit them, to offer them such a bill as they could support. This Government was made to protect and secure the States in all their rights; and, if so, it was very strange that it should permit one of its departments to throw firebrands among them to destroy them. The General Government was bound by solemn contract to protect them in their persons and in their property, and he wished gentlemen to examine the constitution, and see whether it prohibited such a regulation of the Post Office Department as to prevent the transmission of these mischievous publications. The States had no Post Office Department. The power to establish that Department was entirely delegated to the General Government. The power, therefore, over that Department by the General Government was complete, and could not come in conflict with the State Governments. He was speaking now as to the power under the constitution; and could it not make all constitutional provisions to regulate that Department? He admitted that although the power did exist, perhaps no subject was so liable to be abused, or so dangerous in the exercise of it. A power was, during last summer, exercised by the Postmaster General, and some of the postmasters, which answered the purpose; but they acted without law. If it answered without law, it certainly would with it.

MONDAY, April 18.

Professor Lieber.

Mr. CALHOUN presented a memorial of Professor Lieber, on the subject of a statistical work on the United States in preparation by him, and praying for the aid of Congress. Mr. O. spoke of the work in terms of high approbation, and moved the printing.

Mr. WEBSTER said he had the honor of an acquaintance with Professor Lieber, and believed him to be a gentleman of much experience, and an accurate and judicious writer. He had read, too, the memorial which the member from South Carolina had presented, and he thought it a very able and comprehensive plan or outline for a useful and important work on the statistics of the United States. How far Congress might be inclined to patronize such a

work, he could not say, but he thought it would be useful to give publicity to this plan; and he hoped the member from South Carolina would ask for the printing of twice the usual number, so that some few copies might be distributed.

Mr. CALHOUN modified his motion so as to make it for printing double the usual number, and in this form it was agreed to.

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SATURDAY, April 23.

Specie Payments by the Federal Treasury.

The following resolution, submitted yesterday by Mr. BENTON, was taken up for consideration:

"Resolved, That, from and after the — day of —, in the year 1836, nothing but gold and silver ought to be received in payment for the public lands; and that the Committee on the Public Lands be instructed to report a bill accordingly."

Mr. BENTON addressed the Senate in favor of the resolution. He was opposed to a national currency of paper, and in favor of disconnecting the Federal Treasury from paper money, as expeditiously as it could be done without injury to the public. At present he limited himself to one branch of the revenue, the public lands; and, for strong and peculiar reasons, wished to begin with hard-money payments in that branch. The state of the paper system, the impossibility of regulating it in its application to lands, and the mischiefs which were now resulting to the Federal Treasury, to the currency of the new States, and to the settlers and cultivators who wished to purchase lands for use, imperiously required a remedy; and a cessation to receive paper money for land was an obvious and certain remedy for a part of these evils.

The state of the paper system was now hideous and appalling, and those who did not mean to suffer by its catastrophe should fly from its embraces. According to a report made in the House of Representatives by the select committee, of which Mr. Gillet, of New York, was the chairman, the present number of chartered banks and their branches in the United States could not be less than seven hundred and fifty, their chartered capitals not less than \$300,000,000, and their chartered rights to issue paper money extended to \$750,000,000! Mr. B. repeated this statement; and, dwelling upon the last sum, (the \$750,000,000 of paper money,) he said it was enough to make the spirits of the dead start from their graves! the spirits, he meant, of those dead patriots, who, having seen the evils of paper money, and being determined to free their country from such evils in all future time, took care, by a constitutional enactment, to make gold and silver the only currency of the constitution, and the only tender in payment of debts.

The whole issue of all these banks are receivable in payment of all federal dues: they

are all specie paying—and all banks pay specie until they stop—and as such are receivable at the land offices and the custom houses. That makes them current—makes them a general currency—and a forced tender between man and man, contrary to the constitution. Receivability in favor of public dues works that mischief.

Mr. WEBSTER said that he and those who acted with him would be justified in taking no active course in regard to this resolution, in sitting still, suppressing their surprise and astonishment if they could, and letting these schemes and projects take the form of such laws as their projectors might propose.

We are powerless now, and can do nothing. All these measures affecting the currency of the country and the security of the public treasure we have resisted since 1832. We have done so unsuccessfully. We struggled for the recharter of the Bank of the United States in 1832. The utility of such an institution had been proved by forty years' experience. We struggled against the removal of the deposits. That act, as we thought, was a direct usurpation of power. We strove against the experiment, and all in vain. Our opinions were disregarded, our warnings neglected, and we are now in no degree responsible for the mischiefs which are but too likely to ensue.

Who (said Mr. W.) will look with the perception of an intelligent, and the candor of an honest man, upon the present condition of our finances and currency, and say that this want of credit and confidence which is so general, and which, it is possible, may, ere long, overspread the land with bankruptcies and distress, has not flowed directly from those measures, the adoption of which we so strenuously resisted, and the folly of which men of all parties, however reluctantly, will soon be brought to acknowledge? The truth of this assertion was palpable and resistless.

Mr. CALHOUN observed that he should be very much governed in the vote he should give on this occasion by the opinions of gentlemen coming from the new States, where the public lands were. He saw a great many advantages that would result from the measure, and particularly in the check it would give to that spirit of speculation by which bank rags were given in exchange for the valuable public domain. If the gentlemen coming from the West were of opinion that the measure would not affect the settlement and prosperity of the new States, he would cheerfully give it his support.

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SATURDAY, April 30.

Smithson Legacy.

On motion of Mr. PRESTON, the Senate took up the bill authorizing the President of the United States to appoint an agent or agents to prosecute and receive from the British court of

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chancery the legacy bequeathed to the United States by the late James Smithson, of London, for the purpose of establishing at Washington City an institution for the increase of knowledge among men, to be called the Smithsonian University.

Mr. P. said that by this will it was intended that this Government should become the beneficiaries of this legacy, and contended that if they had not the competence to receive it by the constitution, the act of no individual could confer the power on them to do so. He claimed that they had not the power to receive the money for national objects, and, if so, the expending it for another object was a still higher power. He controverted the position that if they could not receive it as the beneficiary legatees, they might receive it as the fiduciary agent.

After some further remarks the question was taken on ordering the bill to be engrossed for a third reading:

YEAS.—Messrs. Benton, Black, Buchanan, Clay, Clayton, Crittenden, Cuthbert, Davis, Ewing of Ohio, Goldsborough, Grundy, Hendricks, Hubbard, Kent, King of Alabama, Knight, Leigh, Linn, Mangum, Moore, Naudain, Nicholas, Porter, Prentiss, Rives, Robbins, Southard, Swift, Tallmadge, Tomlinson, Walker—31.

NAYS.—Messrs. Calhoun, Ewing of Illinois, Hill, King of Georgia, Preston, Robinson, White—7.

TUESDAY, May 3.

Death of Mr. Manning.

A message was received from the House of Representatives, announcing the death of the honorable RICHARD J. MANNING, a representative from the State of South Carolina.

Mr. PRESTON said: The message just read imposes upon me the customary duty of moving for the usual testimony of respect to the memory of my deceased colleague, the honorable RICHARD J. MANNING, of the House of Representatives; and never, sir, has such an official act been performed with deeper emotions than those under whose melancholy influence I rise on this occasion.

It is not fit that I should obtrude my private griefs upon the Senate, although I am well assured that its kindness would extend some indulgence to a friendship of a most intimate character, which, commencing in college companionship, has been unimpaired by the chances and changes of life, and undiminished even by party spirit, whose repulsive energy so often breaks asunder the strongest bonds of affection. For although, sir, it has so happened that we have been much and long opposed in politics, and although I have had much occasion to feel the adverse influence of his high character, there is not that man who loved him living, or mourns him dead, more than I do.

He was, indeed, Mr. President, of very noble nature. Endowed with all high and generous

qualities; cool, bold, just, patient, and resolute; magnanimous in his whole tone of feeling and tenor of thought; totally exempt from all sordid or selfish propensities; of that prompt and patient benevolence to do or to suffer, which comes of natural impulse; educated into principle; unflinching in the performance of duty, but too kind in his nature to be stern; scrupulous in self-regulation, but generously indulgent to others. His father, a distinguished soldier of the Revolution, deeply inscribed upon his son's character the impress of that heroic period. Honor, courage, and devotion to country were hereditary and native to him; and these manly virtues were softened and made amiable by the kindest affections of the heart, while over his whole character presided an exalted and fervent piety.

For many years, in various ways, he received distinguished testimonies of the affection and confidence of his native State. He served frequently in either branch of the Legislature, was Governor, and, at length, a Representative in Congress.

In the prime of life, and in the vigor of manhood, he has died, as he lived—in the midst of his duties. Never, Mr. President, have the honors of the Senate been more worthily bestowed than upon the memory of RICHARD J. MANNING, for which I invoke them, by offering the following resolution:

[The usual resolution, to wear crape on the left arm for thirty days, was then adopted.]

On motion of Mr. PRESTON, as an additional testimony of respect for the memory of the deceased,

The Senate then adjourned.

WEDNESDAY, May 4.

Land Distribution Bill.

The bill to appropriate for a limited time the proceeds of the sales of the public lands among the States, and to grant lands to certain States, was taken up; when Messrs. WRIGHT and BENTON severally addressed the Senate in speeches of some length in opposition to the bill; after which the question was taken, "Shall this bill pass?"

YEAS.—Messrs. Black, Buchanan, Clay, Clayton, Crittenden, Davis, Ewing of Ohio, Goldsborough, Hendricks, Kent, Knight, Leigh, McKean, Mangum, Naudain, Nicholas, Porter, Prentiss, Preston, Robbins, Southard, Swift, Tomlinson, Webster, White—25.

NAYS.—Messrs. Benton, Calhoun, Cuthbert, Ewing of Illinois, Grundy, Hill, Hubbard, King of Alabama, King of Georgia, Linn, Moore, Morris, Niles, Rives, Robinson, Ruggles, Shepley, Tallmadge, Walker, Wright—20.

MONDAY, May 9.

Affairs of Texas.

Mr. PRESTON presented several memorials (all of the same tenor) from citizens of Phil-

adelphia, praying Congress to recognize the independence of Texas; described and characterized the various transactions between that country and Mexico.

Mr. P. said: It was not surprising that the deepest solicitude should be felt in the result of the struggle which was going on in a province so near us; a province, the population of which professed the same religion, spoke the same language, were fighting for the establishment of the same institutions under which we ourselves were living, and were connected with us by the dearest ties of kindred. They had been seduced to emigrate by the promise of a free Government. This Government had been overthrown; and its destroyer, trampling on the fragments of a broken constitution, his passions inflamed to madness, calling to his aid all who had assisted in the old rebellion, exciting their love of plunder and their religious fanaticism, was, with these combined elements, sweeping in a fiery torrent over the country, and destroying life, property, and all that was dear and valuable.

In this state of things, (said Mr. P.,) it surely was not to be wondered at that the deepest solicitude should exist in the breast of every individual. Since he had participated in the affairs of Government, there was scarcely any thing of a public nature which he thought more deserving of attention. His own hopes had been animated: he trusted in God the Texans might succeed; and that the standard of liberty might yet wave over their desolated territory, to the utter exclusion of this barbarous and tyrannic usurper. These hopes were shared in by all who had signed this memorial.

For the present, he would content himself with discharging the duty with which he had been intrusted, by presenting these memorials; and believing that no action of Congress could be had on them, he would move that they be read, and laid on the table.

Mr. WEBSTER said that, like the gentleman from South Carolina, he was not now prepared to go into a discussion on the occurrences on our south-western frontier. He had no wish to anticipate any discussion on this subject, which might hereafter become necessary. In most of the sentiments which had fallen from the Senator from South Carolina he entirely concurred. He considered it as no more than natural that the sympathies of all classes of our citizens should be excited in favor of a war founded in the desire, and sanctified by the name, of liberty. There could be no doubt, from our education and habits, that a free Government is the sort of Government which commands our attachment; and when we see struggling to obtain such a Government those who are in some degree related to us by the ties of country, companionship, and kindred, it is not matter of wonder that we should be inspired with warm hopes for their success. But (Mr. W. said) he also agreed altogether with the Senator from South Carolina, that this is

not the time for Congress to do or sanction any act beyond the preservation of our neutrality in the contest. To any thing beyond this he was opposed; but to that object he was willing to lend his hearty co-operation.

In one respect, only, then, (said Mr. W.,) he differed from the Senator from South Carolina. We ourselves, (the Senate,) it would be recollected, as a part of the Executive, have but recently made a treaty with the Mexican Government, with General Santa Anna at its head, and that Government is at this moment represented in the United States by a diplomatic agent. Under these circumstances, he felt himself restrained from applying such epithets as the Senator from South Carolina had used, in reference to the head of that Government. Having been called on, in the execution of his senatorial functions, to conclude a treaty with that Government, he felt himself restrained from the use of such terms, in speaking of the acknowledged head of the Government, as might have a tendency to prevent the continuance of those relations of peace and amity which are now subsisting between Mexico and the United States.

Mr. PIERCE said: It is our policy to recognize established Governments, no matter what their principles, or by whom founded. We have a treaty with him now; we are running a line between his territory and our own; and there existed no wish on his part to interrupt the first, or prevent the peaceful prosecution of the latter. But there was a principle of vast importance presented to his mind, and that was, the actual existing state of things on the south-western frontier. It was absolutely necessary to consider the next step in the series of events which were transpiring there. There ought to be an augmented military force in that defenceless section of our country; surrounded as it was by savage and warlike tribes, ready to be acted upon by this Santa Anna—a man of unquestioned ability, already in command of a mixed, heterogeneous, and ferocious soldiery. He would restrain his indignation, therefore; and, in consideration of the respectful terms in which the memorial was couched, and the high standing of those who signed it, he would move that it be printed.

The motion to lay the memorials on the table, and to print them, was decided in the affirmative.

THURSDAY, May 10.

Relations with France—Payment of the Delayed Installments.

The following Message was received from the President of the United States:

WASHINGTON, May 10, 1834.

To the Senate and House of Representatives:
Information has been received at the Treasury Department that the four installments under our treaty with France have been paid to the agent of the

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United States. In communicating this satisfactory termination of our controversy with France, I feel assured that both Houses of Congress will unite with me in desiring and believing that the anticipations of the restoration of the ancient cordial relations between the two countries, expressed in my former Messages on this subject, will be speedily realized. No proper exertion of mine shall be wanting to efface the remembrance of those misconceptions that have temporarily interrupted the accustomed intercourse between them.

ANDREW JACKSON.

The Message was laid on the table.

MONDAY, May 16.

Mr. SHEPLEY presented the credentials of the honorable JOHN M. NILES, elected by the Legislature of the State of Connecticut a Senator from that State, to supply the vacancy occasioned by the death of the honorable NATHAN SMITH.

Recognition of Texas.

Mr. MANGUM presented a series of resolutions, adopted by a meeting of citizens of Burke county, North Carolina, on the subject of the affairs of Texas, recommending the acknowledgment by the Government of the United States of the independence of that country.

The resolutions were ordered to be printed.

MONDAY, May 23.

Recognition of Texas.

Mr. WALKER said there had been forwarded to him the proceedings of a large and respectable meeting of citizens, of the State of Mississippi, held at the court-house of Warren county, which he had been requested to present to the Senate. The resolutions contained in these proceedings (Mr. W. said) instructed their Representatives, and requested their Senators in Congress to use their utmost endeavors to obtain from this Government the immediate recognition of the independence of Texas, stating the reasons which have induced the people of this county to urge this measure. The time had now arrived (Mr. W. believed) for action on this subject; and he therefore moved the reference of these proceedings to the Committee on Foreign Relations.

If the accounts we had received from Texas were official, (said Mr. W.,) he would have moved a resolution for the immediate recognition of the independence of Texas. Mr. W. believed these accounts to be true; but, as the information was unofficial, he had moved the reference of the Texas memorials to the Committee on Foreign Relations, in the expectation that they would immediately investigate the subject, and be enabled to present the facts to us in the authentic form which would justify immediate action. When South America was not yet wholly disenthralled from the power of Spain

—when the scale was still balancing, and the question not yet entirely determined which should preponderate, liberty or despotism, Congress had acted upon the question of South American independence. And, at a late period, when the struggle in Greece was still progressing—when her classic soil was still the theatre of a sanguinary and doubtful conflict—when the Moslem crescent had not yet faded before the dawn of liberty—the distinguished Senator from Massachusetts had moved to accredit an agent to Greece. If we were warranted in thus acting upon that occasion, why refuse now to investigate, through the appropriate committee, the situation of affairs in Texas? The intelligence is, that a division of the Mexican army has been overthrown, and the survivors of the contest captured by the troops of Texas; that Santa Anna, the leader of the Mexican army, and the head of the Mexican Government, the very man in whose person that Government was concentrated, was also a prisoner; and that he had consented to the exaltation of Texas, and the immediate recognition of her independence. If, then, (said Mr. W.,) Texas has maintained, upon the field of battle, that declaration of independence made by her many months since—if that independence has been acknowledged by the head of the Mexican Government, and Texas evacuated by the Mexican troops—if there be now a Government *de facto* in operation in Texas, and her enemies overthrown—we must, upon the principles that have always guided our course, recognize at once the independence of Texas.

Mr. WEBSTER said that if the people of Texas had established a Government *de facto*, it was undoubtedly the duty of this Government to acknowledge their independence. He would be one of the first to acknowledge the independence of Texas, on reasonable proof that she had established a Government. There were views connected with Texas which he would not now present, as it would be premature to do so; but he would observe that he had received some information from a respectable source, which turned his attention to the very significant expression used by Mr. Monroe in his Message of 1822, that no European power should ever be permitted to establish a colony on the American continent. He had no doubt that attempts would be made by some European Government to obtain a cession of Texas from the Government of Mexico.

Mr. KING, of Alabama, said: We have uniformly recognized the existing Governments—the Governments *de facto*; we have not stopped to inquire whether it is a despotic or constitutional Government; whether it is a republic or a despotism. All we ask is, does a Government actually exist; and having satisfied ourselves of that fact, we look no further, but recognize it as it is. It was on this principle, (said Mr. K.,) this safe, this correct principle, that we recognized what was called the republic of France, founded on the ruins of the old

monarchy; then the consular government; a little after, the imperial; and when that was crushed by a combination of all Europe, and that most extraordinary man who wielded it was driven into exile, we again acknowledged the kingly government of the house of Bourbon, and now the constitutional King Louis Philippe of Orleans.

Sir, said Mr. K., we take things as they are; we ask not how Governments are established—by what revolutions they are brought into existence. Let us see an independent Government in Texas, and he would not be behind the Senator from Mississippi nor the Senator from South Carolina in pressing forward to its recognition, and establishing with it the most cordial and friendly relations. Why, said Mr. K., should our course now be made to differ from that pursued by us when South America was struggling to free herself from the grinding tyranny of Spain, from the horrors of the inquisition? Was there a man who did not deeply sympathize with them, and desire to see them freed from their oppressors? Not one, sir, not one; every heart throughout this widely-extended republic throbbed with joy at their successes, with pain at their reverses. Did we at once acknowledge their independence? No, sir; far from it. The eloquent Senator from Kentucky, then a member of the House of Representatives, exerted all his powers in vain. The then administration, wise, cautious, just, could not be induced to act in the absence of all information on which certain reliance could be placed. Three of our most respectable citizens were deputed to ascertain the true state of things; and it was not until their report was received, that that prudent administration recommended the recognition of the independence of the South American republics, and the whole country joyfully responded to the recommendation. So, he should hope, would be the action of the administration on the present occasion. Let us have information on which we may reply, not mere rumor.

Mr. MANGUM hoped the Senate would not send this matter to the committee—not to sleep, for they ought to report something on the subject. When Texas came up to the standard of independence, he was prepared to act promptly, but was not willing to embarrass the Executive upon mere newspaper rumor. He would vote against the reference, on the ground that he was unwilling to take any step until he could go the whole length. At present, there was no authentic information that there was any Government in Texas. He would not yield that he had less sensibility than others in behalf of Texas; and being unwilling that the committee should be embarrassed by this delicate question, he would move to lay it on the table.

Mr. CALHOUN was of opinion that it would add more strength to the cause of Texas to wait for a few days, until they received official confirmation of the victory and capture of Santa

Anna, in order to obtain a more unanimous vote in favor of the recognition of Texas. He had been of but one opinion from the beginning, that, so far from Mexico being able to reduce Texas, there was great danger of Mexico herself being conquered by the Texans. The result of one battle had placed the ruler of Mexico in the power of the Texans; and they were now able, either to dictate what terms they pleased to him, or to make terms with the opposition in Mexico.

He had made up his mind not only to recognize the independence of Texas, but for her admission into this Union; and if the Texans managed their affairs prudently, they would soon be called upon to decide that question. No man could suppose for a moment that that country could ever come again under the dominion of Mexico; and he was of opinion that it was not for our interests that there should be an independent community between us and Mexico. There were powerful reasons why Texas should be a part of this Union. The Southern States, owning a slave population, were deeply interested in preventing that country from having the power to annoy them; and the navigating and manufacturing interests of the North and East were equally interested in making it a part of this Union. He thought they would soon be called on to decide these questions; and when they did act on it, he was for acting on both together—for recognizing the independence of Texas, and for admitting her into the Union.

Mr. BROWN said he would say a few words on the motion to refer the memorial in favor of the recognition of the independence of Texas to the Committee on Foreign Relations. We had been called on, said Mr. B., to take this step, by the advocates of the motion, confessedly on the grounds of the propriety of an immediate acknowledgment of the existing authorities in Texas as a Government. He, therefore, should view the motion as looking to that result, and as the means by which it was sought to be accomplished. What he would ask, was the nature of the information on which this important step was to be predicated? Were we in possession of that well-authenticated intelligence, as regards the condition of Texas, and the competency of its existing authorities to maintain themselves against the power of the Mexican Government, which would authorize such a measure? These were important preliminary inquiries, and should not be regarded as settled, until we had received more certain and definite information than we yet had in our possession. Mr. B. could not, he said, consider the effort which was now making by honorable gentlemen to stimulate action on this subject by our Government, in any other light than an attempt to change practically and radically the neutral and pacific character of our Government, which had long been cherished as one of its wisest and best settled principles of policy—a policy under the

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guidance of which we had grown, and strengthened, and become powerful at home and respectable abroad.

Mr. RIVES concurred in the necessity of caution. This Government should act with moderation, calmness, and dignity; and because he wished the Senate should act with that becoming moderation, calmness, and dignity, which ought to characterize its deliberations on international subjects, it was his wish that the subject might be referred. If it was postponed, it would come up again for discussion from morning till morning, to the exclusion of most of the business of the Senate, as there was nothing to prevent the presentation of petitions every morning, to excite discussion. It was for the purpose of avoiding these discussions, that he should vote to refer it at once to the Committee on Foreign Relations. He did not vote to refer it to the committee to receive its quietus, but that they might give their views upon it; nor did he feel as if he were called upon to express an opinion upon the propriety of the measure. It was strange that Senators, who stated that their opinions were made up, should oppose the reference.

The memorials were then referred to the Committee on Foreign Relations.

WEDNESDAY, May 25.

Deposit Regulation Bill—Deposit of Surplus Revenue with the States—Mr. Calhoun's Plan.

On motion of Mr. CALHOUN, the Senate took up the bill to regulate the deposits of the public moneys; when Mr. C. was permitted, by general consent, to modify the bill by adding new sections, the purport of which is, that the unexpended balance remaining in the Treasury, on the 31st of December of each year, except — dollars, shall be deposited with the several States of the Union, each in proportion to its population; that the Secretary of the Treasury shall notify the Executive of each State that the sum allotted to his State will be paid on the warrant of the Chief Magistrate of said State, or deposited in the State Treasury, at his option; the sum thus deposited with the States to be retained without interest until wanted by the General Government, and that — month's notice shall be given before it is withdrawn; that where a State is not authorized by its existing laws to receive the deposits, the sum allotted to it shall be transferred to it on the warrant of its Executive, or deposited in its Treasury, as soon as it shall have passed a law authorizing such transfer for deposit: this act to continue in force till the 30th of June, 1842.

The question then recurred on Mr. WRIGHT's amendment, providing for the investment of the surplus in the Treasury in some safe public stocks, &c.

On motion of Mr. WRIGHT, the bill was laid

on the table, with an understanding to take it up to-morrow.

THURSDAY, May 26.

Fortifications and Surplus Revenue.

The bill making appropriations for the purchase of sites, the collection of materials, and the commencement of certain fortifications, was read the third time.

The question was then taken on the final passage, and decided in the affirmative:

YEAS.—Messrs. Benton, Black, Brown, Buchanan, Cuthbert, Davis, Ewing of Illinois, Goldsborough, Grundy, Hendricks, Hill, Hubbard, Kent, King of Alabama, Linn, Morris, Naudain, Nicholas, Niles, Porter, Prentiss, Rives, Robbins, Robinson, Ruggles, Shepley, Tallmadge, Tomlinson, Walker, Webster, Wright—31.

NAYS.—Messrs. Calhoun, Crittenden, Ewing of Ohio, King of Georgia, Leigh, Mangum, Moore, Preston, White—9.

FRIDAY, May 27.

Deposit Regulation Bill—Deposit with the States—Mr. Calhoun's Plan.

Mr. WRIGHT said he had two insuperable objections to prefer against the propositions offered by the Senator from South Carolina, (Mr. CALHOUN,) for a disposition of the surplus revenue. The first was, that he considered them, in substance and in effect, propositions to make a general distribution to the States of all the revenues in the national Treasury, from whatever source derived, and, in that sense, to embrace the adoption of a principle which he considered more dangerous to our civil institutions, State and national, than any other which could be presented for the sanction of Congress. The taxing powers of this Government were to be used to accumulate money for distribution to the sovereign and independent States of the confederacy. Those States were to be taught to look to this Government for the means to supply their wants; for the money to sustain their institutions; for the funds to meet their legislative appropriations. Can relations of this sort be established, and the independence of the States be preserved? Can the Government of a State feel or exercise an independence of the power which feeds and sustains it by direct and gratuitous contributions from its Treasury? What step can be so eminently calculated as this, to produce speedy and perfect consolidation?

Mr. W. said he knew he should be answered that it was not proposed to give, but to loan, this money to the States; to take their bonds or securities for its repayment, upon the call of Congress. It would be further said that the omission to charge interest was a matter of entire discretion with Congress, and of justice to the States, inasmuch as the money had been

collected from the people of the States; and, if not wanted for the uses of this Government, ought to be submitted to the States for their use, without charge. These were specious answers, to which the form of the propositions gave countenance; but what would be their practical effect? The money was to go to the States upon a rule of distribution prescribed, and claimed to be equal and just; it was to go to them for any uses they may choose to make of it, and without interest. In return for the money, the several State Legislatures are to pass laws declaring that the State will repay the principal when Congress shall, by law, call for the payment. Does any one believe that the national Treasury will ever receive back one dollar of the money distributed upon these terms? What is the course? The immediate relation of debtor and creditor is established between each of the States and the Federal Government, and the power to demand payment is left with the representatives of the States, and of the people of the States, in the two Houses of Congress; while the response to that demand rests with the States themselves, acting through their respective Legislatures, or otherwise, as they shall choose. The Treasury is in want. Will the States, through their agents here, make a demand upon themselves to supply that want? Never, Mr. President. They may, through that channel, call for increased distributions, but never for the repayment of moneys which have been distributed and expended.

It must not be alleged, Mr. W. said, that, in making these remarks, he expressed distrust of the patriotism or faith of the States. No man entertained more confidence in both than himself; but the government of the States was the government of the people of the States, and the people of the States composed the vast, sagacious, enterprising business community, which all here in common represent, and of whose interests they, as an aggregate number, are quite as perfect judges as their representatives anywhere. He should never express a doubt of their faith or patriotism; nor did he doubt that they would, at all times, and for all proper purposes, keep the national Treasury fully and richly supplied. If, however, want should come upon that Treasury, the manner of answering that want would be before the people, and subject to their interests and their will. If an increase of the duties upon imports, an increase of indirect taxation, should be more acceptable to the majority than a call upon the States for the money now proposed to be intrusted to them, that mode of supplying the Treasury will, of course, be adopted. Which—he would ask every Senator to answer to himself in candor and sincerity—which would be the most probable resort? In case of a call upon the States, all would be equally interested, and all would be likely to resist. Such a call, if the rule of distribution should be a proper and constitutional rule, would be, in effect, pre-

cisely equivalent to laying a direct tax to the amount, and the interest of no State or section of the country could, in any event, be promoted by it; but in an increase of the duties upon foreign importations, and the consequent increase of the revenue from customs, a large majority of the people of the whole Union, as experience has shown, may easily be made to believe, if the fact be not so, that their interest will be directly and essentially promoted. Who, then, can doubt that this mode, instead of a call upon the States for the money parcelled out to them, will be the mode of supplying any future wants of the Treasury, so long as a resort to this indirect taxation can reach that object? If a calamitous and expensive war shall come upon the nation, and our commerce shall be so far interrupted or destroyed as to render any rates of duty upon imports an inadequate supply to the Treasury, then, indeed, Mr. W. said, this money might be called for; because there no other resort but to such a call, or to a direct tax, would remain to Congress. Still, an important and most delicate question would, even then, be likely to govern the action of the national Legislature. Each State would calculate the relative effect upon itself of a call for the money, or a direct tax to raise the same amount. The interests of the States whose population shall have relatively diminished between the time of the receipt of the money and the time when a call shall be proposed, will dictate to it, and to its representatives here, to favor a direct tax in preference to a call; because its proportion of the tax will be less than was its proportion of the money, distributed when its relative position among the States was higher. On the contrary, the relatively increasing States, those whose population shall bear a higher proportion to the whole when the call comes than when the distribution took place, will favor a call instead of a tax, because the proportion of money falling to their share will have been less than their proportion of the tax when they shall have become relatively more populous. The preponderance of these interests will, of course, determine the action of Congress when the crisis will have arrived.

If this view of the subject be sound and practical, will any one contend that the disposition of the surplus, according to these propositions, is, in effect, any thing less than a general and unrestricted distribution of it to the States? The repayment is submitted to their action, and is subject to their pleasure; and all the constitutional means for a supply of money to the Treasury, separate from a call for this money, will be constantly as open to them and to their representatives here, as they now are, and will remain, if this distribution be not made. Is, then, the position sound, that Congress will never make the call until a necessity either of levying a direct tax, or of making it, shall exist? And if it be, is the position of the General Government made, in any respect, better, by having required the promise of payment as a con-

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dition precedent to dividing out the moneys of the Treasury to the States? Mr. W. said that he could not see that it was, while he could see the most fearful evils which might arise from this debtor and creditor relation between the States and this Government. He could foresee incalculable evils which might grow out of the conflicting and contrary interests of the different States, whenever it should be proposed by the Federal Government to make the call for this money, and thus attempt to render the promises to pay operative. He was compelled further to apprehend, in consequence of these propositions, should they be adopted, an early agitation of the tariff controversy, and the revival of local questions which have so recently tried the strength of this Union more severely than it had ever before been tried, and given to our institutions a shock which every patriot would long remember, and labor, to the utmost of his power, to avoid in future.

His second objection, Mr. W. said, was against the rule of distribution adopted. It was directed to be made according to the representation of each State in the Senate and House of Representatives. He must suppose, if Congress possess the power, under the constitution, to divide out the moneys in the public Treasury to the States, or to the people of the States, that the rule of distribution must follow that which governs the collection of the same money. That rule is the rule of representation and taxation; is the rule of federal numbers; is the rate of representation, as nearly as may be, by which the States are represented in the House of Representatives. It has never before been proposed to include the Senate in any calculation of equality between the States. The constitution has in no instance included it; and he must think that its inclusion here was against the spirit and against the express provisions of that instrument. How had this money been accumulated? By taxation, direct or indirect. From whom had it been collected? From the people of the States. The constitution prescribed the rule by which, and by which only, Congress might tax them; and that was in proportion to their federal numbers. If the money is not wanted for the uses of the Federal Government, to whom does it belong? and to whom should it be returned? Most certainly to the people from whom it has been collected, and in the same proportions which governed its collection from them. It should be distributed, then, upon the federal numbers of the States, or upon their representation in the House of Representatives alone; and the representation in the Senate, which has no relation to the population or tax-paying liabilities of the States, should not be included.

Another argument against the adoption of this rule of distribution, of the strongest character, was to be found in the certainty it would create that the money would never be called for, even to avoid direct taxation. By this rule, all the small States would obtain a large

amount of the money to be distributed, beyond the proportion to which their federal numbers would entitle them. Sixteen of the twenty-four States would gain, and eight only would lose. Present, then, in this body, where the States are represented equally, the alternative of a direct tax, or a call upon the States for this money, and which do you think, Mr. President, would be adopted? Would the sixteen States prevail, or the eight? and if the sixteen, which alternative would they choose? That, of course, which the interests of the States represented here, and holding the majority, should dictate. What would be that interest? In the distribution of the money to be repaid, they will have received a proportion much greater than their proportion of federal population, because the rule of distribution included their representation in the Senate. If, then, they consent to the call for repayment, they must return the money received. On the contrary, if these States adopt a direct tax, they have only to raise a sum equal to their exact proportions in the scale of federal numbers, and therefore will be direct gainers by preferring the tax and rejecting a call for the money.

Mr. W. said he must, in justice to himself, state that the fact, that the rule proposed to be adopted would work the greatest injustice to his own State, had very little influence with him in urging this objection. If a distribution was to be made, and New York was to be a recipient, it was his duty to contend for her rights; but in debt as she was, if all her citizens entertained his feelings and opinions upon this subject, they would look, as they most safely might, to her wealth, to her enterprise, to her immense advantages and resources, to pay her debts and carry her on to her high destiny, and would not prostrate her before the national Treasury, for the miserable boon of a few hundred thousand dollars. Were he permitted to advise, his State would never accept the money proposed to be entrusted to her upon the terms prescribed.

Mr. W. said he had but one single further suggestion to make, and he would resume his seat. He wished to inquire of those gentlemen who had voted for the land bill, and who now proposed to support the propositions offered by the Senator from South Carolina (Mr. CALHOUN) to distribute the surplus revenue among the States, whether the two measures would, or would not, conflict with each other? whether they were, or were not, intended as antagonist measures? That bill provides for the distribution of the proceeds of the sales of the public lands on specified days, and extends through the year 1837. These propositions make the same disposition of all the revenues in the Treasury, over a given sum to be named, upon specified days, without regard to the sources from which the moneys may have been derived, and extends its action through the year 1841. If he was not mistaken, the distributions under the two bills were to take place, in some in-

stances at least, on the same day. What he wished gentlemen to inform him was, which bill would take the money; for he supposed either would take all which could be called surplus. The rule of distribution was very different in the two cases, and he would be glad to learn whether it was intended, by this measure, to repeal in effect the land bill. His inquiries were particularly directed to the author of this scheme for distribution, and he should await his answer.

SATURDAY, May 28.

Resignation of Mr. Hill.

The CHAIR communicated the following letter of resignation from the Hon. ISAAC HILL; which was read:

WASHINGTON, May 28, 1836.

SIR: Having been elected by the citizens of New Hampshire to the office of Chief Magistrate of that State, without waiting a formal official communication of the canvass; and it being expedient that I should enter on the discharge of the duties of the new office during the ensuing week, I communicate to you, and through you to the Senate, information that on Monday next I shall resign my seat in the Senate.

With the best wishes of happiness to yourself, and to the Senators with whom I have been associated,

I am, with great respect,
Your obedient servant,
ISAAC HILL.

Hon. MARTIN VAN BUREN,
Vice President of the United States.

Public Deposits—Mr. Calhoun's plan.

The Senate then proceeded to the consideration of the bill to regulate the deposits of the public money.

After some words from Mr. WRIGHT, in explanation,

Mr. CALHOUN said: After bestowing on the subject the most deliberate attention, I have come to the conclusion that there is no other so safe, so efficient, and so free from objections, as the one I have proposed—of depositing the surplus that may remain at the termination of the year in the treasuries of the several States, in the manner provided for in the amendment. But the Senator from New York objects to the measure, that it would, in effect, amount to a distribution, on the ground, as he conceives, that the States would never refund. He does not doubt but that they would, if called on to refund by the Government, but he says that Congress will in fact never make the call. He rests this conclusion on the supposition that there would be a majority of the States opposed to it. He admits, in case the revenue should become deficient, that the southern or staple States would prefer to refund their quota, rather than to raise the imposts to meet the deficit; but he insists that the contrary would be the case with the manufacturing States, which

would prefer to increase the imposts to refunding their quota, on the ground that the increase of the duties would promote the interests of manufactures. I cannot agree with the Senator that those States would assume a position so utterly untenable as to refuse to refund a deposit which their faith would be pledged to return, and rest the refusal on the ground of preferring to lay a tax, because it would be a bounty to them, and would consequently throw the whole burden of the tax on the other States. But, be this as it may, I can tell the Senator that, if they should take a course so unjust and monstrous, he may be assured that the other States would most unquestionably resist the increase of the imposts; so that the Government would have to take its choice, either to go without the money, or call on the States to refund the deposits. But I so far agree with the Senator as to believe that Congress would be very reluctant to make the call; that it would not make it till, from the wants of the Treasury, it should become absolutely necessary; and that, in order to avoid such necessity, it would resort to a just and proper economy in the public expenditures as the preferable alternative. I see in this, however, much good instead of evil. The Government has long since departed from habits of economy, and has fallen into a profusion, a waste, and an extravagance in its disbursements, rarely equalled by any free State, and which threatens the most disastrous consequences.

But I am happy to think that the ground on which the objection of the Senator stands may be removed, without materially impairing the provisions of the bill. It will require but the addition of a few words to remove it, by giving to the deposits all the advantages, without the objections which he proposes by his plan. It will be easy to provide that the States shall authorize the proper officers to give negotiable certificates of deposit, which shall not bear interest till demanded, when they shall bear the usual rates till paid. Such certificates would be, in fact, State stocks, every way similar to that in which the Senator proposes to vest the surplus, but with this striking superiority: that, instead of being partial, and limited to a few States, they would be fairly and justly apportioned among the several States. They would have another striking advantage over his. They would create among all the members of the confederacy reciprocally the relation of debtor and creditor, in proportion to their relative weight in the Union; which, in effect, would leave them in their present relation, and would of course avoid the danger that would result from his plan, which, as has been shown, would necessarily make a part of the States debtors to the rest, with all the danger resulting from such relation.

The next objection of the Senator is to the ratio of distribution, proposed in the bill, among the States, which he pronounces to be unequal, if not unconstitutional. He insists that the

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true principle would be to distribute the surplus among the States in proportion to the representation in the House of Representatives, without including the Senators, as is proposed in the bill; for which he relies on the fact, that, by the constitution, representation and taxation are to be apportioned in the same manner among the States.

The Senate will see that the effect of adopting the ratio supported by the Senator would be to favor the large States, while that in the bill will be more favorable to the small.

The State I in part represent occupies a neutral position between the two. She cannot be considered either a large or a small State, forming, as she does, one twenty-fourth part of the Union, and of course it is the same to her whichever ratio may be adopted. But I prefer the one contained in my amendment, on the ground that it represents the relative weight of the States in the Government. It is the weight assigned to them in the choice of the President and Vice President in the electoral college, and, of course, in the administration of the laws. It is also that assigned to them in the making of the laws by the action of the two Houses, and corresponds very nearly to their weight in the judicial department of the Government; the judges being nominated by the President and confirmed by the Senate. In addition, I was influenced in selecting the ratio by the belief that it was a wise and magnanimous course, in case of doubt, to favor the weaker members of the confederacy. The larger can always take care of themselves, and, to avoid jealousy and improper feelings, ought to act liberally towards the weaker members of the confederacy. To which may be added, that I am of the impression that, even on the principle assumed by the Senator, that the distribution of the surplus ought to be apportioned on the ratio with direct taxation, (which may be well doubted,) the ratio which I support would conform in practice more nearly to the principle than that which he supports. It is a fact not generally known, that representation in the other House, and direct taxes, should they be laid, would be far from being equal, although the constitution provides that they should be. The inequality would result from the mode of apportioning the representatives. Instead of apportioning them among the States, as near as may be, as directed by the constitution, an artificial mode of distribution has been adopted, which in its effects gives to the large States a greater number, and to the small a less, than that to which they are entitled. I would refer those who may desire to understand how this inequality is effected, to the discussion in this body on the apportionment bill, under the last census. So great is this inequality, that, were a direct tax to be laid, New York, for instance, would have at least three members more than her apportionment of the tax would require. The ratio which I have proposed would, I admit, produce as great an inequality

in favor of some of the small States, particularly the old, whose population is nearly stationary; but, among the new and growing members of the confederacy, which constitute the greater portion of the small States, it would not give them a larger share of the deposits than what they would be entitled to on the principle of direct taxes. But the objection of the Senator to the ratio of distribution, like his objection to the condition on which the bill proposes to make it, is a matter of small comparative consequence. I am prepared, in the spirit of concession, to adopt either, as one or the other may be more acceptable to the Senate.

It now remains to compare the disposition of the surplus proposed in the bill with the others I have discussed; and, unless I am greatly deceived, it possesses great advantages over them. Compared with the scheme of expending the surplus, its advantage is, that it would avoid the extravagance and waste which must result from suddenly more than quadrupling the expenditures, without a corresponding organization in the disbursing department of the Government to enforce economy and responsibility. It would also avoid the diversion of so large a portion of the industry of the country from its present useful direction to unproductive objects, with heavy loss to the wealth and prosperity of the country, as has been shown; while it would, at the same time, avoid the increase of the patronage and influence of the Government, with all their corruption and danger to the liberty and institutions of the country. But its advantages would not be limited simply to avoiding the evil of extravagant and useless disbursements. It would confer positive benefits, by enabling the States to discharge their debts, and complete a system of internal improvements by railroads and canals, which would not only greatly strengthen the bonds of the confederacy, but increase its power, by augmenting infinitely our resources and prosperity.

I do not deem it necessary to compare the disposition of the surplus which is proposed in the bill with the dangerous, and, I must say, wicked scheme of leaving the public funds where they are, in the banks of deposit, to be loaned out by those institutions to speculators and partisans, without authority or control of law.

Compared with the plan proposed by the Senator from New York, it is sufficient, to prove its superiority, to say that, while it avoids all of the objections to which his is liable, it at the same time possesses all the advantages, with others peculiar to itself. Among these, one of the most prominent is, that it provides the only efficient remedy for the deep-seated disease which now afflicts the body politic, and which threatens to terminate so fatally, unless it be speedily and effectually arrested.

I have now, said Mr. C., stated what, in my opinion, ought to be done with the surplus. Another question still remains—not what shall,

but what will, be done with the surplus? With a few remarks on this question, I shall conclude what I intended to say.

There was a time, in the better days of the republic, when to show what ought to be done, was to ensure the adoption of the measure. Those days have passed away, I fear, forever. A power has risen up in the Government greater than the people themselves, consisting of many and various and powerful interests, combined into one mass, and held together by the cohesive power of the vast surplus in the banks. This mighty combination will be opposed to any change; and it is to be feared that such is its influence that no measure to which it is opposed can become a law, however expedient and necessary, and that the public money will remain in their possession, to be disposed of, not as the public interest, but as theirs may dictate. The time, indeed, seems fast approaching, when no law can pass, nor any honor be conferred, from the Chief Magistrate to the tide-waiter, without the assent of this powerful and interested combination, which is steadily becoming the Government itself, to the utter subversion of the authority of the people. Nay, I fear we are in the midst of it, and I look with anxiety to the fate of this measure as the test whether we are or not.

If nothing should be done; if the money, which justly belongs to the people, be left where it is, with the many and overwhelming objections to it, the fact will prove that a great and radical change has been effected; that the Government is subverted; that the authority of the people is suppressed by a union of the banks and Executive—a union a hundred times more dangerous than that of church and state, against which the constitution has so jealously guarded. It would be the announcement of a state of things, from which, it is to be feared, there can be no recovery—a state of boundless corruption, and the lowest and basest subserviency. It seems to be the order of Providence that, with the exception of these, a people may recover from any other evil. Piracy, robbery, and violence, of any description, may, as history proves, be followed by virtue, patriotism, and national greatness; but where is the example to be found, of a degenerate, corrupt, and subservient people, who have ever recovered their virtue and patriotism? Their doom has ever been the lowest state of wretchedness and misery; scorned, trodden down, and obliterated forever from the list of nations. May Heaven grant that such may never be our doom!

Mr. BUCHANAN said he would make a few remarks upon the plans proposed by the Senators from South Carolina and New York, for disposing of the surplus in the Treasury; and, first, in regard to that of the Senator from South Carolina. He proposes to loan the balance remaining in the Treasury at the end of each year, until June, 1842, (after deducting therefrom \$3,000,000,) to the several States, without interest; each State receiving such a

proportion of the whole amount as her Senators and Representatives in Congress bear to the whole number of members of both Houses. The sums are to be refunded to the Treasury of the United States at such times as Congress shall by law provide.

Mr. B. said he would waive for the present any constitutional doubts which may exist in regard to the power of Congress to distribute among the several States the surplus revenue derived from taxation. He would merely remark that, if we do not possess the power to make such a distribution, he could not perceive by what authority we could make the loan proposed by the gentleman. If you have not the power to give the principal, whence can you derive your power to give the interest? To loan the States this money, without interest, is to make them a donation of an annuity equal to six per cent. per annum, for an indefinite period, on the sums which they may respectively receive. In any constitutional view of the subject, he could not perceive how the interest could share a different fate from that of the principal. This was not to be a mere deposit with the States for safe keeping; it was intended by all that the money should be used by the States in the construction of internal improvements, in the payment of their debts, and in accomplishing every object which they might deem useful. If we possess the power to loan the public money to the States in this manner, we might at once give it to them absolutely.

The leading objection which he had to this system was, that its direct and continuing tendency, at least until 1842, would be to create a bias in the Senators and Representatives of the States in Congress in opposition to the fair and efficient administration of the federal Government. The Senator from South Carolina, feeling the force of this objection, has attempted to obviate it by stating that the strong tendency of the action of this Government was towards consolidation, and this proposition would be useful as a counteracting force. Mr. B. would now neither dispute nor affirm the proposition of the Senator in regard to the central tendency of this Government; but this he would say, that, in avoiding Scylla, we must take care not to rush into Charybdis. He thought the counteracting power of the gentleman's bill would be so excessive that it might drive us into the opposite extreme, and thus become dangerous.

Mr. B. said he greatly preferred the distribution proposed by the land bill to that of the Senator from South Carolina. The same objection did not exist to it. It assumed as a principle that the nett proceeds of the sales of the public lands belonged to the States. It withdrew from this Government the entire fund. It would leave us to administer the Government out of the other means which still remained. It was a fixed and certain mode, and did not seek to distribute a mere surplus of what might remain in the Treasury after

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we had provided for other objects. Besides, the money was granted absolutely, and not loaned to the States. But he did not intend to discuss the merits or demerits of the land bill upon the present occasion.

THURSDAY, June 2.

Incendiary Publications.

On motion of Mr. CALHOUN, the Senate took up the bill to prohibit the circulation, through the mails, of incendiary publications.

Mr. GRUNDY moved to amend the bill by striking out all after the enacting clause, and inserting a substitute.

Mr. CALHOUN moved to amend the amendment by providing that where incendiary publications are sent to the States where such publications are prohibited by law, they shall be delivered to such persons as may be appointed to receive them, and when there are no such persons appointed to receive them, they shall be burnt; or otherwise disposed of, under the regulations of the Post Office Department.

On taking the question, this amendment was lost—yeas 15, nays 15, as follows:

YEAS.—Messrs. Black, Brown, Calhoun, Clay, Cuthbert, Goldsborough, Grundy, Kent, King of Alabama, King of Georgia, Moore, Nicholas, Rives, Walker, White—15.

NAYS.—Messrs. Benton, Buchanan, Davis, Hendricks, Hubbard, Morris, Prentiss, Robinson, Shepley, Southard, Swift, Tallmadge, Tomlinson, Webster, Wright—15.

After remarks from Messrs. MORRIS, CALHOUN, KING of Georgia, and GRUNDY, the question was taken on Mr. GRUNDY's substitute; and it was agreed to without a division.

The amendment of the committee was concurred in, and the question on ordering the bill to be engrossed for a third reading was carried—yeas 18, nays 18, as follows; the Chair voting in the affirmative:

YEAS.—Messrs. Black, Brown, Buchanan, Calhoun, Cuthbert, Goldsborough, Grundy, King of Alabama, King of Georgia, Moore, Nicholas, Preston, Rives, Robinson, Tallmadge, Walker, White, Wright—18.

NAYS.—Messrs. Benton, Clay, Davis, Ewing of Illinois, Ewing of Ohio, Hendricks, Hubbard, Kent, Morris, Niles, Prentiss, Ruggles, Shepley, Southard, Swift, Tomlinson, Wall, Webster—18.

TUESDAY, June 7.

District Banks—Recharter and Restrictions.

The bill to extend the charters of certain banks in the District of Columbia, was taken up; and the question being on the passage of the bill,

Mr. WRIGHT spoke against the passage of the bill.

Mr. KNIGHT made a few remarks in reply.

Mr. NILES also spoke in favor of the bill.

Mr. BENTON opposed the passage of the bill.

Mr. KING, of Alabama, again vindicated the bill and the banks, and urged especially the distressing results to the District of the failure of the bill, or of any great and sudden change in the currency of the District.

After some further remarks from Mr. WALKER,

The question was taken on the passage of the bill, and decided as follows:

YEAS.—Messrs. Black, Buchanan, Calhoun, Clay, Crittenden, Cuthbert, Davis, Ewing of Ohio, Goldsborough, Hendricks, Hubbard, Kent, King of Alabama, Knight, Leigh, Naudain, Nicholas, Porter, Prentiss, Rives, Southard, Swift, Tallmadge, Tomlinson, Walker, Webster—26.

NAYS.—Messrs. Benton, Ewing of Illinois, King of Georgia, Linn, McKean, Mangum, Morris, Niles, Robinson, Ruggles, Shepley, Wall, White, Wright—14.

After transacting some other business, The Senate adjourned.

WEDNESDAY, June 8.

Incendiary Publications.

On motion of Mr. CALHOUN, the Senate proceeded to consider the bill to prohibit deputy postmasters from receiving and transmitting certain papers described therein, in the States in which they are, or may be, prohibited by law.

A discussion arose, in which Mr. WEBSTER, Mr. BUCHANAN, Mr. DAVIS, Mr. GRUNDY, Mr. CLAY, and Mr. CALHOUN took part—when,

The question being on the passage of the bill—

Mr. CUTHBERT rose to request that the Senate would, by the postponement of the subject for a short time, allow him an opportunity of being heard on it when his health was better.

Mr. C. then moved to lay the bill on the table; which motion was lost.

The bill was then rejected by the following vote:

YEAS.—Messrs. Black, Brown, Buchanan, Calhoun, Cuthbert, Grundy, King of Alabama, King of Georgia, Mangum, Moore, Nicholas, Porter, Preston, Rives, Robinson, Tallmadge, Walker, White, Wright—19.

NAYS.—Messrs. Benton, Clay, Crittenden, Davis, Ewing of Illinois, Ewing of Ohio, Goldsborough, Hendricks, Hubbard, Kent, Knight, Leigh, McKean, Morris, Naudain, Niles, Prentiss, Ruggles, Shepley, Southard, Swift, Tipton, Tomlinson, Wall, Webster—25.

THURSDAY, June 9.

Limitation on Sessions of Congress.

The following Message was received from the President of the United States:

To the Senate of the United States:

The act of Congress "to appoint a day for the annual meeting of Congress," which originated in

the Senate, has not received my signature. The power of Congress to fix, by law, a day for the regular annual meeting of Congress is undoubted; but the concluding part of this act, which is intended to fix the adjournment of every succeeding Congress to the second Monday in May, after the commencement of the first session, does not appear to me in accordance with the provisions of the Constitution of the United States.

The constitution provides—

1st article, 5th section—"That neither House, during the session of Congress, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two Houses shall be sitting."

1st article, 6th section—"That every order, resolution, or vote, to which the concurrence of the Senate and House of Representatives may be necessary, (except on the question of adjournment,) shall be presented to the President of the United States, and, before the same shall take effect, shall be approved of by him." &c.

2d article, 2d section—"That he (the President) may, on extraordinary occasions, convene both Houses of Congress, or either of them; and, in case of disagreement between them with respect to the time of adjournment, he may adjourn them to such times as he thinks proper," &c.

According to these provisions, the day of the adjournment of Congress is not the subject of legislative enactment. Except in the event of disagreement between the Senate and House of Representatives, the President has no right to meddle with the question, and, in that event, his power is exclusive, but confined to fixing the adjournment of the Congress whose branches have disagreed. The question of adjournment is obviously to be decided by each Congress for itself, by the separate action of each House for the time being, and is one of those subjects upon which the framers of that instrument did not intend one Congress should act, with or without the executive aid, for its successors. As a substitute for the present rule, which requires the two Houses by consent to fix the day of adjournment, and, in the event of disagreement, the President to decide, it is proposed to fix the day by law, to be binding in all future time, unless changed by consent of both Houses of Congress, and to take away the contingent power of the Executive, which, in anticipated cases of disagreement, is vested in him. This substitute is to apply, not to the present Congress and Executive, but to our successors. Considering, therefore, that this subject exclusively belongs to the two Houses of Congress, whose day of adjournment is to be fixed, and that each has at that time the right to maintain and insist upon its own opinion, and to require the President to decide in the event of disagreement with the other, I am constrained to deny my sanction to the act herewith respectfully returned to the Senate. I do so with greater reluctance, as, apart from this constitutional difficulty, the other provisions of it do not appear to me objectionable.

ANDREW JACKSON.

WASHINGTON, June 9, 1836.

The Message was ordered to be printed, and made the order for Wednesday next.

FRIDAY, June 17.

Resignation of Senator Naudain.

The CHAIR communicated the following letter:

SENATE CHAMBER, June 16, 1836.

SIR: I beg leave to inform the Senate, through you, that I have resigned my seat, as a Senator from the State of Delaware, in the Senate of the United States, from and after this day.

In thus taking leave of the Senate, permit me, sir, to tender to you, and, through you, to the body over which you preside, the assurance of my high regard.

I am, most respectfully,
Your obedient servant,
ARNOLD NAUDAIN.

To the Hon. MARTIN VAN BUREN,
President of the Senate.

Deposit Regulation Bill—Deposit with the States—Mr. Calhoun's Plan.

The engrossed bill to regulate the deposits of the public money, &c., was read a third time; and the question being on its passage,

Mr. WRIGHT said a single question had excited peculiar interest with him. He had been most anxious to agree upon a bill to regulate the deposits of the public money in the banks; and when he found that no proposition for the disposition of any surplus, if surplus there should be, to which he could give his assent, could command the support of the majority of the committee, he had urged the separation of the two subjects, and the report of two separate bills; the one to regulate the deposits in the banks, and the other to provide for a more permanent disposition of the surplus. In this he was unsuccessful, as the majority of the committee preferred that the two subjects should be connected in the same bill.

Since the report of the committee of the Senate, he had made every proper effort in his power to produce that separation, and he could not but congratulate himself upon the fact that his first effort was successful; that the first vote of the Senate sustained the propriety of his views, and directed the separation of the two subjects, (which he must say he considered in their nature and character entirely separate,) and the report of independent bills for each.

A reconsideration, however, had been proposed, and, after a night's deliberation, it was carried. The motion to recommit was then lost; and the determination of the Senate thus expressed that the two subjects should be coupled in the same bill, and should stand or fall together. From that time (Mr. W. said) he had felt himself relieved from all responsibility as to a deposit bill proper. He had found that no such bill could be passed in the Senate, without incorporating with it a perfectly separate and most important provision for giving the moneys in the Treasury to the States, under the name of a deposit. Such a provision contained principles to which he could not, for any consideration, give his assent; and after that

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vote, therefore, the bill to him had lost its value.

[Mr. Wright then presented a detailed view, item by item, of the bills then depending in the two Houses, and the amount demanded by each, and showed that the aggregate amounted to 20 millions more than the amount then in the Treasury: and added]—

He did not say that these appropriations would all be made. He did not believe they would all be made; but he had intended to select with care and caution such only as were presented to Congress with strong claims; of many of them he could say with claims which seemed to him almost, if not altogether, irresistible. He would then ask gentlemen who disputed his conclusions to point out the important bills he had enumerated which would not and ought not to pass. He had given particular reference to the measures, and he hoped they would put their finger upon those which they would oppose.

Mr. CALHOUN said the Senator had made use of the best of all possible arguments for preserving the surplus. No Senator had estimated the whole surplus at the end of the year including the \$7,000,000 in the United States Bank, and exclusive of the year's expenditures, at less than \$66,000,000. The Senator from New York had earnestly endeavored to prove that the expenditures of this year of this administration would amount to this \$66,000,000. Mr. C. made a solemn appeal to Senators, whether they were prepared to rise so soon from an annual Government expenditure of \$12,000,000, then deemed prodigal, to the enormous sum of \$66,000,000, and that in a time of profound peace. There could possibly be no stronger argument in favor of taking care of the surplus. Mr. C. made a comparison between the State stock and State deposit projects, and drew the obvious deductions in favor of the latter, expressing his satisfaction at the great unanimity of the Senate on the subject, and his belief that but for the opposition from the Senator from New York the vote would have been unanimous.

Mr. WALKER followed Mr. CALHOUN.

The discussion was continued by Mr. BUCHANAN, Mr. BENTON, and Mr. TALLMADGE.

Mr. BENTON said: I come, Mr. President to the second subject in the bill—the distribution feature—and to which the objections are, not of detail, but of principle; but which objections are so strong in the mind of myself and some friends, that, far from shrinking from the contest, and sneaking away in our little minority of six where we were left last evening, we come forward with unabated resolution to renew our opposition, and to signalize our dissent, and anxious to have it known that we contended to the last against the seductions of a measure, specious to the view, and tempting to the taste, but fraught with mischief and

fearful consequences to the character of this Government, and to the stability and harmony of this confederacy. These objections lie to the 18th section of the bill, which are in these words.

"SEC. 18. *And be it further enacted*, That the money which shall be in the Treasury of the United States, on the 1st day of January, eighteen hundred and thirty-seven, reserving the sum of five millions of dollars, shall be deposited with the several States, in proportion to their respective representation in the Senate and House of Representatives of the Congress of the United States; and the Secretary of the Treasury shall deliver the same to such persons as the several States may authorize to receive it, on receiving certificates of deposit, signed by the competent authorities of such State, each for such amount and in such form as the Secretary of the Treasury may prescribe, which shall set forth and express the obligation of the State to pay the amount thereof to the United States, or their assigns; and which said certificates it shall be competent for the Secretary of the Treasury, in the name and behalf of the United States, to sell and assign whenever it shall be necessary for want of other money in the Treasury to meet appropriations made by Congress; all sales and assignments, however, to be ratable, and in just and equal proportions, among all the States, according to the amounts received by them, respectively; and all such certificates of deposit shall be subject to and shall bear an interest of five per cent. per annum, payable half yearly, from the time of such sale and assignment, and shall be redeemable at the pleasure of the States issuing the same."

The question being taken on the passage of the bill, it was decided in the affirmative, as follows:

YEAS.—Messrs. Buchanan, Calhoun, Clay, Crittenden, Davis, Ewing of Illinois, Ewing of Ohio, Goldsborough, Hendricks, Hubbard, Kent, King of Alabama, King of Georgia, Knight, Leigh, Linn, McKean, Mangum, Moore, Morris, Nicholas, Niles, Page, Porter, Prentiss, Preston, Rives, Robbins, Robinson, Ruggles, Shepley, Southard, Swift, Tallmadge, Tipton, Tomlinson, Wall, Webster, White—40.

NAYS.—Messrs. Behton, Black, Cuthbert, Grundy, Walker, Wright—6.

The Senate then adjourned.

SATURDAY, June 18.

Texas.

Mr. CLAY, from the Committee on Foreign Relations, to whom were referred the resolutions of the Legislature of Connecticut, and a number of memorials and petitions from various quarters, praying for the recognition of the independence of Texas, made a report, concluding with the following resolution:

Resolved, That the independence of Texas ought to be acknowledged by the United States whenever satisfactory information shall be received that it has in successful operation a civil Government, capable of performing the duties and fulfilling the obligations of an independent power.

MONDAY, June 20.

The CHAIR presented the credentials of RICHARD BAYARD, elected United States Senator, by the Legislature of the State of Delaware, to fill the vacancy occasioned by the resignation of the honorable ARNOLD NAUDAIN.

Mr. BAYARD took the requisite oath.

WEDNESDAY, June 22.

Public Deposits.

A message was received from the House of Representatives, by Mr. FRANKLIN, their Clerk, stating that the House had passed the bill from the Senate, "to regulate the deposits of the public money," with an amendment, in which they requested the concurrence of the Senate.

The amendment is as follows: "

Strike out the thirteenth section, and insert, in lieu thereof, the following:

SEC. 13. *And be it further enacted*, That the money which shall be in the Treasury of the United States on the 1st day of January, 1837, reserving the sum of five millions of dollars, shall be deposited with such of the several States, in proportion to their respective representation in the Senate and House of Representatives of the United States, as shall by law authorize their treasurers, or the competent authorities, to receive the same on the terms hereinafter specified; and the Secretary of the Treasury shall deliver the same to such treasurer, or other competent authorities, on receiving certificates of deposits therefor, signed by such competent authorities, in such form as may be prescribed by the Secretary aforesaid, which certificate shall express the usual and legal obligations, and shall pledge the faith of the State for the safe-keeping and repayment thereof, and shall pledge the faith of the States receiving the same to pay the said moneys, and every part thereof, from time to time, whenever the same shall be required by the Secretary of the Treasury, for the purpose of defraying any wants of the public Treasury beyond the amount of the five millions aforesaid: *Provided*, That, if any State declines to receive its proportion of the surplus aforesaid, on the terms before named, the same shall be deposited with the other States agreeing to accept the same on deposit, in the proportion aforesaid: *And provided, further*, That, when said money, or any part thereof, shall be wanted by the said Secretary, to meet the appropriations made by law, the same shall be called for in ratable proportions, within one year, as nearly as conveniently may be, from the different States with which the same is deposited, and shall not be called for in sums exceeding ten thousand dollars, from any one State, in any one month, without previous notice of thirty days for every additional sum of \$20,000 which may at any time be required.

The amendment being read,

Mr. CALHOUN moved to lay it on the table for examination; which motion, after a few words from Mr. WEBSTER, was agreed to.

* Mr. Calhoun's State deposit section.

[The amendments of the House to the bill granting lands to the State of Alabama, for the purposes specified therein, was taken up, and concurred in.]

On motion of Mr. CALHOUN, the Senate proceeded to consider the amendment to the deposit bill.

Mr. CALHOUN moved that the Senate concur in the amendment.

Mr. WEBSTER expressed his acquiescence, but said he should have preferred the bill as it went from the Senate, as it was then in a form which disconnected it most completely from the State Governments.

Mr. MORRIS objected to the motion to concur, as he thought the amendment by which the States were bound to repay the deposit on the demand of the General Government very exceptionable, and likely to lead to serious abuses.

Mr. BUCHANAN said: The House objected to the Senate bill, that it placed the money in the State treasuries, not as a public deposit, because the Federal Government did not reserve the power to reclaim the money at any time, and that this was not a constitutional mode of depositing. The bill was amended to obviate the objection, and he hoped the amendment would be concurred in.

Mr. CALHOUN said the principles of the bill had not been changed, and he hoped the Senate would come to a vote. No Secretary of the Treasury will ever call for this money.

Mr. CLAY deemed the bill as amended better than it was before, because it now contained a restriction on the Treasury in calling in the money, so that it would not be in the power of the Treasury to distress the banks. He also understood that the amendment would quiet constitutional scruples somewhere, and he was himself disposed to respect and quiet scruples of that kind anyhow and anywhere.

The amendment was then concurred in.

Adjournment Veto.

The Senate proceeded to the consideration of the Message of the President of the United States, returning the bill to fix the day for the annual meeting of Congress, with his objections thereto.

The question being on the passage of the bill, the objections of the President thereto to the contrary notwithstanding, a debate ensued, in which Mr. CLAYTON, Mr. WEBSTER, Mr. PEXTON, Mr. BAYARD, Mr. CLAY, Mr. LEIGH, Mr. CALHOUN, against, and Mr. RIVES and Mr. SHEPLEY in favor of the opinion of the President, participated.

The bill was laid on the table till to-morrow.

THURSDAY, June 23.

Joseph Grant.

On motion of Mr. KNIGHT, the bill to extend the patent right of Joseph Grant, for making hat bodies, was taken up.

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Mr. KNIGHT addressed the Chair in its favor. Messrs. WALL and NILES opposed it; after which, it was laid on the table. The Senate adjourned.

FRIDAY, June 24.

The Navy.

On motion of Mr. SOUTHARD, the bill for the organization of the navy was taken up.

Mr. S. observed that the objections heretofore made to this bill were to the number of persons to be promoted to the grade of admiral. With a view to try the sense of the Senate, he would move to strike out the four rear admirals.

The motion was agreed to, leaving in the bill one admiral, and two vice admirals.

After some remarks from Messrs. CUTHBERT, SOUTHARD, and WEBSTER, and other Senators, the bill was so amended as to provide for one admiral, one vice admiral, and three rear admirals; after which, it was ordered to be engrossed for a third reading.

MONDAY, June 27.

Adjournment Veto.

The Senate proceeded to consider the Message of the President of the United States, returning the bill fixing a day for the annual meeting of Congress, and for the close of the first session of each Congress.

The question being on the passage of the bill, the objections of the President to the contrary notwithstanding,

Mr. PORTER said he had voted against the bill when it was brought forward, but he was opposed to the grounds taken by the President.

Mr. WALL sustained the argument of the President in a few observations.

Mr. SOUTHARD had voted against the bill, because he considered that its provisions involved an inconvenience; but he was satisfied that Congress had the constitutional power to pass the law, and he could not therefore sustain the veto, but should vote for the bill, the decided vote of the two Houses having settled the question of expediency.

Mr. NILES sustained the principles of the message, and maintained that the bill could not be sustainable, because it fettered the successors of the Congress which passed the law.

Mr. WALKER referred to the constitution to show that, when a bill was vetoed by the President, it was not required of Congress to reconsider his reasons, but only to reconsider the bill.

The question was then taken on the passage of the bill, the President's objections notwithstanding, and decided as follows:

YEAS.—Messrs. Bayard, Buchanan, Clay, Clayton,

Davis, Goldsborough, Hendricks, Kent, Knight, Morris, Robbins, Robinson, Southard, Swift, Tipton, Webster—16.

NAYS.—Messrs. Benton, Black, Brown, Calhoun, Cutburt, Ewing of Illinois, Grundy, Hubbard, King of Alabama, King of Georgia, Leigh, Linn, Mangum, Nicholas, Niles, Page, Porter, Rives, Tallmadge, Walker, Wall, White, Wright—23.

So the bill was rejected.

Joseph Grant.

The bill for the relief of Joseph Grant was taken up, and the amendment moved by Mr. WALKER on Saturday being agreed to, the bill was ordered to be engrossed:—yeas 17, nays 14.

TUESDAY, June 28.

Expunging Resolutions:—New York Legislative Instructions.

Mr. WRIGHT presented resolutions of the Legislature of New York, instructing their Senators to support Mr. BENTON's expunging resolutions. Mr. W. said that he had had these resolutions in his possession for some time, and had only delayed presenting them till the subject was called up in the Senate.

Mr. CLAY observed that, as the resolution of the Senator from Tennessee was disposed of, he thought it would be proper to take up the other resolution on the same subject and dispose of it also. He had not the charge of these resolutions, and would therefore make no motion.

Mr. CLAYTON said that he would move to take it up. He did not wish to make a speech on it, but having been instructed by his Legislature to vote against these expunging resolutions, he wished to record his vote in obedience to his instructions.

Mr. WRIGHT observed that there were only thirty Senators present, and he hardly thought gentlemen would take a question of such importance when the Senate was so thinly attended.

Mr. BENTON said that he had intended to ask for the vote on his resolution after the resolution of the Senator from Tennessee was disposed of, or rather to give notice of the hour when he would call it up, in order that there might be a full attendance of Senators when they came to the vote. If 12 o'clock to-morrow was agreeable to the Senate, he would call up the resolution at that hour.

Mr. CLAYTON concurred in Mr. BENTON's notice, and withdrew his motion.

Joseph Grant.

On motion of Mr. KNIGHT, the vote by which the bill for the relief of Joseph Grant had been ordered to a third reading, was reconsidered.

It was then moved by Mr. KNIGHT to strike out the amendment which secured from harm those who had used the invention (for hat bodies) since the patent had expired, which this bill was intended to renew.

Some discussion took place, in which Mr. RUGGLES, Mr. WRIGHT, Mr. PORTER, Mr. OLAYTON, Mr. OLAY, Mr. PRESTON, Mr. KNIGHT, and Mr. NILES, took part.

The ayes and noes were then demanded by Mr. WRIGHT, and ordered, on the motion to strike out.

The question was then about to be taken, when Mr. HUBBARD moved to lay the bill on the table; which was decided in the negative—yeas 18, nays 20.

The question was then taken on the motion to reconsider the vote amending the bill by inserting the proviso, and decided in the negative—yeas 18, nays 19.

The question was then taken on the engrossment of the bill, and decided in the affirmative—yeas 19, nays 17.

[The bill was to renew a patent, expired perhaps two years ago, for a machine for making hat bodies. Since the expiration of the patent, the invention had fallen into the public hands, and was now in common use. Mr. RUGGLES introduced an amendment to secure to those who have the machines the right of using them, notwithstanding the renewal of the patent. The bill had been originally ordered to be engrossed, with this amendment ingrafted upon it; but as it was complained that this prevented the patentee from making any advantage of his invention, the motion to reconsider was made.]

THURSDAY, JUNE 30.

The VICE PRESIDENT announced that he should not resume the Chair, during the present session, after this day.

Expunging Resolution.

Mr. BENTON, after a few remarks, in reference to the cause which prevented him from calling up the expunging resolution yesterday, said he left it to the Senate to act in reference to it as they might think proper.

After a few remarks from Mr. PRESTON, Mr. OLAY, and Mr. BENTON, the subject was finally dropped.

Mr. OLAY said that he would take the opportunity of saying that it had been his fixed purpose, considering the relation in which he stood to the resolution of March, 1834, and to the Senate as having offered it, to address the Senate on the subject of it. He was particularly desirous to have vindicated the resolution in the assertion which it contained of the exercise of executive power in derogation from the constitution and laws of the United States. After the fullest reflection, his judgment remained unchanged, that it was an exercise of illegal and unconstitutional power, and dangerous to the liberties of the people of this country. And if he could have seen a suitable occasion, after hearing all that could be urged against the resolution, he should have endeavored to maintain, by argument, that

proposition. But it has been so treated, from time to time, taken up and laid upon the table, (the last time to afford an opportunity to the present Chief Magistrate of an eastern State to deliver his sentiments upon it, when he (Mr. O.) was detained from the Senate by the illness of a member of his family,) that he had not seen a fit moment when he could, according to his sense of propriety, address the Senate. It is now, as every Senator must feel, entirely too late in the session, when important public business was pressing upon both Houses, to protract the discussion upon this resolution. Mr. O. was anxious to have brought forward from the present democratic fountain in this country a precedent, on all substantial points directly applicable, against the process of mutilating and expunging the journals of the Senate. But, solicitous as he was to discuss the particular topic, and to spread before the Senate, the precedent to which he referred, he could not think of trespassing on the time of the Senate during the precious moments that remained. With respect to the final disposition to be made of the resolution, he was content to acquiesce in any decision the Senate might think proper to make. If it be its pleasure to take up the resolution and pass definitively upon it, without further debate, he would be satisfied.

Death of James Madison.

The following Message was received from the President of the United States:

WASHINGTON, June 30, 1836.

To the Senate and House of Representatives:

It becomes my painful duty to announce to you the melancholy intelligence of the death of JAMES MADISON, Ex-President of the United States. He departed this life at half-past six o'clock, on the morning of the 28th instant, full of years and full of honors.

I hasten this communication, in order that Congress may adopt such measures as may be proper to testify their sense of the respect which is due to the memory of one whose life has contributed so essentially to the happiness and glory of his country, and to the good of mankind.

ANDREW JACKSON.

Mr. RIVES addressed the Senate as follows:

Mr. President, I feel that it would be an act of sacrilegious temerity, were I to attempt to add to the intrinsic pathos of the melancholy intelligence just announced to us by the President of the United States, by any thing in the way of eulogy on the character of the great man whose decease he has communicated to us. The eulogy of Mr. Madison is written in every page of the history of his country, to whose service his whole life was devoted, and with every great event in whose annals his name stands conspicuously and enduringly identified. Filled, however, as his life was, from its dawn to its close, with labors of patriotism and superior wisdom, there is one great work of

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Respect to James Madison.

[SENATE.]

his which must ever recur prominently to the grateful memory of his country. He was, in an especial manner, the founder and author of that glorious constitution which is the bond of our Union and the charter of our liberties, and, it was graciously vouchsafed to him, in the order of providence, to witness, for a longer period than any of his illustrious colleagues, the rich blessings which have resulted from its establishment. He was the last surviving signer of that sacred instrument. Amid the general grief which pervades the nation, may we not indulge one consolation at least, in the hope that his death, whilst adding the last seal to his own fame and glory, will, in some sort, canonize the work of his hands, and surround with a new veneration that precious relic of the wisdom of our departed patriots and sages.

But, sir, I will not speak of the public life of Mr. Madison; it is known to us all; it is appreciated by us all. It was my privilege to see and to know him in the scenes of that classic retirement in which he passed the evening of his days. It was there that the mild lustre of his private virtues, which formed the crowning grace of his character, and is the indispensable complement of a true public glory, was seen and felt. But who can paint him there? Who can adequately describe that fascinating suavity of temper and manners, that spirit and grace of conversation so happily blended with the oracles of philosophy and experience, that amiable and cultivated benevolence, ever watchful of the feelings and comfort of others, even in the minutest trifles, which, together, formed, around the hearth of Montpelier, a group of social virtues and attractions which, however incompetent the powers of language to portray, none who have felt their influence can ever forget? In speaking of these things, Mr. President, I am but too forcibly reminded of my own personal loss in the general and national calamity which we all bewail. I was the neighbor of Mr. Madison, sir, and enjoyed his kindness and friendship; and if, in speaking of a great national bereavement, my mind recurs too fondly to the chasm his death has left in the immediate circle of his friends, something, I trust, will be pardoned to the feelings of the heart.

It is my melancholy satisfaction to have received, in all probability, the last letter ever signed by his hand. It bears date only six days before his death, and furnishes, in its contents, a striking illustration of that amiable benevolence, and sensibility to the kindness of others, which formed so prominent a trait in his character. In that letter, which is now before me, he spoke of his enfeebled health, and his trembling and unsteady signature, so much in contrast with the usual firmness and regularity of his writing, bore a graphic and melancholy intimation of his approaching end. Still I trusted that his light might hold out to the 4th of July, that he might be restored on

that glorious anniversary to an immortal companionship with those great men and patriots with whom he had been intimately connected in life, and whose coincident deaths, on the birthday of the nation's freedom, had imparted to that day, if possible, an additional and mysterious illustration. But it has been ordered otherwise. His career has been closed at an epoch which, forty-nine years ago, witnessed his most efficient labors in the illustrious assembly which laid the foundations of our present system of Government, and will thus, by the remembrance of his death, as well as by the services of his life, more closely associate him with that great work which is at once the source and the guarantee of his country's happiness and glory.

What honors, Mr. President, are there, by which we can do justice to a character which history will hold up to future ages as a model of public and private virtue, not surpassed by the brightest examples in ancient or modern times? Sir, there are none. Still it is proper that, as representatives of the American people, we should show, by some suitable manifestations, how sincerely and deeply we participate in the universal feeling of grief on this mournful occasion; and I move you, therefore, the following resolution:

Resolved, That a committee be appointed on the part of the Senate, to join such committee as may be appointed on the part of the House, to consider and report by what token of respect and affection it may be proper for the Congress of the United States to express the deep sensibility of the nation to the event of the decease of Mr. Madison, just announced by the President of the United States.

The resolution was unanimously adopted; and,

On motion of Mr. RIVES, the committee was appointed by the Chair, consisting of the following gentlemen: Messrs. RIVES, CLAY, CALHOUN, GRUNDY, BUCHANAN, LEIGH, and TALLMADGE.

Supplementary Deposit Bill.

The bill supplemental to the act to regulate the public deposits was read the third time and passed, by yeas and nays, as follows:

YEAS.—Messrs. Bayard, Buchanan, Clayton, Cuthbert, Davis, Ewing of Ohio, Goldsborough, Hendricks, Kent, King of Alabama, King of Georgia, Linn, Nicholas, Niles, Page, Porter, Preston, Robbins, Robinson, Southard, Swift, Tomlinson, Wall, Wright—24.

NAYS.—Messrs. Benton, Brown, Mangum, Moore Walker, White—6.

Respect to James Madison.

Mr. RIVES, from the select committee appointed to meet such committee as might be appointed by the other House to consider and report by what token of respect and affection it may be proper for the Congress of the United States to express the deep sensibility of the nation in the event of the decease of Mr. Madison,

reported the following resolutions, which were unanimously adopted :

"The President of the United States having communicated to the two Houses of Congress the melancholy intelligence of the death of their illustrious fellow-citizen, James Madison, of Virginia, late President of the United States, and the two Houses sharing in the general grief which this distressing event must produce—

"Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the chairs of the President of the Senate and of the Speaker of the House of Representatives be shrouded in black during the residue of the session, and that the President of the Senate, the Speaker of the House of Representatives, and the members and officers of both Houses, wear the usual badge of mourning for thirty days.

"Resolved, That it be recommended to the people of the United States to wear crapes on the left arm, as mourning, for thirty days.

"Resolved, That the President of the United States be requested to transmit a copy of these resolutions to Mrs. Madison, and to assure her of the profound respect of the two Houses of Congress for her person and character, and of their sincere condolence on the late afflicting dispensation of Providence."

FRIDAY, July 1.

President of the Senate pro tem.

At eleven o'clock, A. M., the Secretary called the Senate to order; and,

On motion of Mr. WEBSTER, the Senate proceeded to the election of a President pro tem.; and the ballots being counted, it appeared that Mr. KING, of Alabama, was elected President of the Senate, pro tem., and he was conducted to the chair by Mr. WHITE.

The President pro tem. returned his thanks to the following effect:

Gentlemen of the Senate: This flattering manifestation of the confidence and respect of my brother Senators fills my heart with the liveliest sensibility.

To be called to preside over the deliberations of the Senate of the United States, distinguished as it is for intelligence, moral worth, and a patriotic devotion to the principles of liberty, is an honor of which the first in this land might be justly proud. I shall enter, gentlemen, upon the discharge of the duties which your kindness has devolved upon me, with the determination to discharge them zealously, faithfully, and impartially. I am, however, fully aware that, unless I am sustained by the Senate, all my efforts correctly and usefully to discharge them must prove vain and fruitless; but the order, the decorum, which has heretofore so eminently distinguished the Senate of the United States; the courtesy and good feeling which has uniformly marked the official and social intercourse of its members, gives to me the strongest assurance that I may confidently rely on their kindness and support. I earnestly request honorable Senators to make proper allowances for the errors into which I may occasionally fall, and to aid me in correcting them.

Texas.

Mr. PRESTON moved the Senate to take up the resolution of the Committee on Foreign Relations, on the subject of Texas.

Mr. PRESTON made some remarks, in the course of which he stated that he had with difficulty restrained himself from offering an amendment to recognize the independence of Texas immediately. He gave a brief narrative of the events of the revolution in Texas, and stated that he had this morning received authentic information, in the form of a letter from Mr. Austin, which confirms the statement that General Filasola had carried into effect the armistice agreed on between the Texan Government and Santa Anna. This treaty Mr. P. regarded as amounting to a recognition on the part of Mexico of the independence of Texas. The Vice President of Texas was about to proceed to Vera Cruz, to enforce from the mouths of the Texan guns the conclusion of a definitive treaty of peace between the two countries.

Mr. CLAY said he had no objection to the amendment, as it is in consonance with the tone of the report. He did not agree that the fact of a new State having expelled her enemy, or having even captured the head of the hostile force, was, of itself, sufficient to warrant a recognition of her independence as one of the family of nations. In reference to the remark of the Senator that Texas only could carry into effect the treaty we have negotiated with Mexico, (Mr. C. said,) no principle in the law of nations was more settled than that the branches of a nation were bound to fulfil the stipulations of a treaty made by the head; and Texas was now as much bound by the treaty with Mexico, as was Mexico herself.

Mr. WEBSTER added a few words to express his entire acquiescence in the resolution of the committee and the amendment. He was willing to go so far as to vote funds to enable the President to send out a proper minister. But against a direct recognition he thought there existed strong objections. It was the proper function of the President to take the lead in this matter. He was of the opinion that the recency of the revolution was an objection to immediate recognition.

Mr. WALKER made some remarks to show that Mexico had never exercised the power of government in Texas, except during a short interval when Santa Anna was in Texas.

Mr. BUCHANAN concurred in every sentiment expressed in the report of the committee, and congratulated the Senate on the spectacle exhibited by the people of the United States, who, although operated upon by the strongest feelings of indignation at the outrageous conduct of the Mexicans, had confined themselves within the limits of our established policy. He did not perceive that any disadvantage could result to Texas from a little delay, now that she is in the full tide of her prosperity.

Mr. CALHOUN congratulated the Senate on

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Adjournment.

[SENATE.]

the tone of the discussion; stated that he had hoped we should be ready to recognize Texas before now; but under existing circumstances, he thought we should only go at present so far as the report and resolution contemplate.

Mr. NILES said that he did not wish to prolong the debate; yet, from the relation in which he stood to the subject, he felt it a duty to express his approbation of the resolution which had been reported by the Committee on Foreign Affairs. He fully concurred in the views of the committee. He thought they had gone far enough, and had stopped at the proper point. He had on a former occasion expressed the opinion that it would be premature unqualifiedly to recognize the independence of Texas at this time, and he had seen nothing to change this opinion.

Mr. SOUTHWARD said:

I am not prepared to unite in the general expression of a belief that the independence of Texas is secured, and her struggle over. It seems to me impossible that this can be the case. Texas may—she probably will—at some period, perhaps not remote, establish her independence on a foundation which Mexico cannot shake. She has temptations to offer to enterprise, ambition, and avarice, to the better and the baser passions of our nature, which may draw to her very efficient aid in her conflict, and will, probably, carry her triumphantly through it.

Mr. BENTON said he should confine himself strictly to the proposition presented in the resolution, and should not complicate the abstract question of recognition with speculations on the future fate of Texas. Such speculations could have no good effect upon either of the countries interested; upon Mexico, Texas, or the United States. Texas has not asked for admission into this Union. Her independence is still contested by Mexico. Her boundaries, and other important points in her political condition, are not yet adjusted. To discuss the question of her admission into this Union, under these circumstances, is to treat her with disrespect, to embroil ourselves with Mexico, to compromise the disinterestedness of our motives in the eyes of Europe, and to start among ourselves prematurely, and without reason, a question, which, whenever it comes,

cannot be without its own intrinsic difficulties and perplexities.

I voted in 1821 to acknowledge the absolute independence of Mexico; I vote now to recognize the contingent and expected independence of Texas. In both cases the vote is given upon the same principle—upon the principle of disjunction where conjunction is impossible or disastrous. The union of Mexico and Spain had become impossible; that of Mexico and Texas is no longer desirable or possible. A more fatal present could not be made than that of the future incorporation of the Texas of La Salle with the ancient empire of Montezuma. They could not live together, and extermination is not the genius of the age; and, besides, is more easily talked of than done. Bloodshed only could be the fruit of their conjunction; and every drop of that blood would be the dragon's teeth sown upon the earth. No wise Mexican should wish to have this Trojan horse shut up within their walls.

The debate was continued by Mr. PRESTON, who asked for the yeas and nays on the resolution; and it was unanimously adopted.

MONDAY, July 4.

Adjournment.

After the consideration of executive business, A Message was received from the President of the United States, by Mr. DONELSON, his secretary, stating that he had signed the several bills (specifying them by their titles) submitted to him on that day.

The motion submitted by Mr. GRUNDY, for the appointment of a joint committee to wait on the President of the United States to inform him that the two Houses of Congress were ready to adjourn, and desiring to know whether he had any further communications to make to them, was taken up and agreed to.

After waiting some time,

Mr. GRUNDY, from the joint committee appointed to wait on the President, reported that they had performed the duty assigned them, and that the President had answered that he had no further communications to make to Congress.

On motion of Mr. BUCHANAN,

The Senate adjourned *sine die*.

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